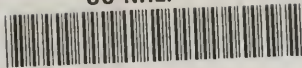


Venezuelan Question

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VENEZUELAN QUESTION:

BRITISH AGGRESSIONS IN VENEZUELA, OR THE MONROE DOCTRINE ON TRIAL; LORD SALISBURY'S MISTAKES; FALLACIES OF THE BRITISH "BLUE BOOK" ON THE DISPUTED BOUNDARY.

—BY—

WILLIAM L. SCRUGGS;

Late Envoy Extraordinary and Minister Plenipotentiary of the  
United States to Colombia and to Venezuela.

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ATLANTA, GA.:  
THE FRANKLIN PRINTING AND PUBLISHING CO.  
1896.



U. S. Commission appointed to  
investigate and report upon the true  
dissectional line between Venezuela and  
British Guiana. THE Report v. 9:4

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## PRELIMINARY NOTE.

Nearly the whole of Part I. of this paper, under the title of "British Aggressions in Venezuela, or the Monroe Doctrine on Trial," appeared in pamphlet form as early as October, 1894. It soon passed through three successive editions, and was subsequently laid before the Venezuela Boundary Commission, in revised form, immediately after the organization of that body.

Part II., entitled "Lord Salisbury's Mistakes on the Boundary Question," was first prepared in March, 1896, when it was submitted to the Boundary Commission.

A portion of Part III., entitled "Fallacies of the British Blue Book on the Venezuelan Boundary Question," was first prepared and submitted to the Boundary Commission in April, 1896. Since then, several pages and notes have been added.

For the sake of greater convenience to the Commission, as well as for the purpose of satisfying a public demand for these publications, all three are now collected, in the present enlarged and revised form.





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## PART I.

### BRITISH AGGRESSIONS IN VENEZUELA.

#### I.

On the northeastern shores of the South American continent, extending from the Atlantic ocean and the gulf of Paria to the Orinoco river and the watersheds of the Amazon, is a vast expanse of rich and beautiful, though as yet but sparsely populated country, known as the Guayanas.<sup>1</sup> Such is its peculiar topographical conformation that, although within the tropics, it has great diversity of climate and soil, and is capable of almost every variety of agricultural product common to the temperate zone. Its natural wealth of mine and forest is almost incalculable; while its favored geographical position, fine harbors, and network of navigable rivers place it in the very front rank of future commercial possibilities.

This vast domain, though formerly a Spanish possession,<sup>2</sup> is now partitioned among five separate nationalities. One portion belongs to Brazil, another to France, another to Holland, another to Eng-

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<sup>1</sup> So designated by all the old maps and geographies of the country. It was the name given to the immense area bounded south by the Amazon, west by the Orinoco, and north and east by the Atlantic ocean. It was called by Sir Walter Raleigh "that mighty, rich, and beautiful Empire of Guinea"; by the less enthusiastic Dutch navigators "the Wild Coast"; and by the Spaniards "El Dorado." The fable of *El Dorado*, however, seems to have had its origin on the coast of what is now the Republic of Colombia; to have passed thence to the interior altaplanes of Bogotá, Tunja, and Pamplona; and thence to the interior table-lands of Guayana. A vague rumor prevailed at different times throughout all these regions that the sovereign prince of the remote interior appeared on great state occasions with his body sprinkled over with glittering gold dust; and the term *El Dorado* ("The Golden") was subsequently applied to a supposed country of fabulous mineral wealth.

<sup>2</sup> All the early chroniclers and historians of the New World, from Herrera to Padre Pedro Murillo Velarde, attribute to Spain, as the original discoverer and occupant, proprietorship of the whole of the Guayanas. By the treaty of 1750 Spain ceded to Portugal the territory on the Amazon from the mouth of the Rio Negro. This compact was rescinded in 1761, thus reestablishing the *status quo*. In 1777 Spain again relinquished her title to a part of the Amazon, retaining, however, the part above the mouth of the Jabara.

land, and another to Venezuela. We are now concerned only about the two adjacent portions belonging to Venezuela and England.

Venezuela derived title from Spain in 1810; England derived title from Holland in 1814. The precise boundary between them, although clearly inferable from historical facts, was never definitely fixed by treaty; and now, after the lapse of many decades, they are parties to a boundary dispute which has interrupted their friendly intercourse. Not only have their diplomatic relations been suspended since 1887, but the persistent aggressions of the stronger power upon the territory and jurisdiction of the weaker, have reached a point which directly threatens the dismemberment of one of the Spanish American republics, and indirectly menaces the sovereignty and territorial integrity of at least two others.

Such a controversy, involving as it does principles so vital to autonomous government on this continent, can hardly fail to deeply interest the American people. Moreover, since the contention has assumed a phase in open conflict with American public law, and with an international status in South America for the maintenance of which the United States stand solemnly pledged, it has ceased to be a matter of mere local concern, and has already become a grave international question. It is worth while then, in order to a clear conception of its merits and possible consequences, to briefly examine some of the more salient points in its origin and history. In undertaking this task, I am not conscious of any motives other than a love of justice, such as ought to actuate an impartial friend of both parties; but it will be quite impossible to preserve this attitude without permitting the facts and the law in case their full force of simple statement.

Venezuela, as a colony of Spain, declared her independence in 1810; and nine years later she united with two other revolted Spanish colonies (New Granada and Ecuador) in the formation of the old Colombian federal Union, which was formally recognized as an independent nation by the United States in 1822 and afterwards by all the powers of the world. Subsequently, in 1830, when that Union was dissolved, Venezuela resumed her independent position, and became a separate and independent Republic, and was, in due course, recognized in that capacity by the United States and by all the other powers. Spain, however, sullenly

withheld her formal recognition till 1845, when by public treaty she, quite superfluously, "ceded" to the Republic the thirteen provinces (Guayana being one of them), constituting the old colonial Captaincy-General of Venezuela in 1810.<sup>1</sup> But neither in that treaty of recognition, nor in the fundamental law of either the old or the new Republic, is there any mention of exact boundary lines. It is merely stated, in general terms, that the boundaries are "the same as those which marked the ancient Viceroyalty and Captaincy-General of New Granada and Venezuela in the year 1810."

And there is equal indefiniteness as to boundary in the cession of part of Dutch Guayana to England, by the United Netherlands, in 1814. By the treaty of that date, England agreed to restore to Holland "all the colonies, factories, and establishments" that were in the military possession of the latter in 1803, with the exception only of the Cape of Good Hope and "the establishments of Demerara, Essequibo, and Berbice." These were to be disposed of by supplemental agreement "conformable to the mutual convenience and interests of both parties."<sup>2</sup> And by the terms of that supplemental agreement, the States-General, for a monetary consideration, ceded to England "the Cape of Good Hope and the establishments of Demerara, Essequibo, and Berbice" on the condition that the Dutch should retain the right freely to navigate and trade between those places and the territories of the Netherlands in Europe.<sup>3</sup> But there is no mention of boundaries of these three "establishments" or settlements which constitute the present British Guiana.

Fortunately, however, the extent of those settlements is not a matter of blind conjecture; for their boundaries are very clearly indicated, as we shall see further on, by an unbroken chain of historical and documentary evidence extending back over a period of more than two centuries.

<sup>1</sup> That Venezuela's title was perfect before this act of specific cessions, there can be no doubt. (*Infra*, p 12.)

<sup>2</sup> Art. I., Tr. of London, Aug. 13, 1814.

<sup>3</sup> Art. I., Supplemental Treaty, Aug. 13, 1814.



## II.

It may be premised as a principle now universally accepted that "when a European colony in America becomes independent, it succeeds to the territorial limits of the colony as it stood in the hands of the parent country." The United States have always successfully maintained this principle. They have always maintained, as other nations have maintained, that discovery gave an exclusive right to extinguish, whether by purchase or by conquest, the Indian title of occupancy. And they have as consistently and successfully maintained that their title to Indian territory was not contingent upon any act of specific *cession* by the parent country; but that the treaty of peace of 1783 "was merely a recognition of pre-existing right of domain," and that "the soil and sovereignty within the acknowledged limits of the thirteen colonies were as much theirs at the time of the Declaration of Independence as at any subsequent period."<sup>1</sup>

Now that the whole of the Guayanese territory originally belonged to Spain, in virtue of her right as the first discoverer and occupant, hardly admits of doubt. A Spanish subject, Don Alonzo de Ojeda, sailing under royal commission, was the first discoverer in 1499. In 1500, Don Vicente Yañez Pinzon, another Spanish subject, was the first to explore the delta of the Orinoco. In 1531, Don Deigo de Ordaz, another Spanish subject, was the first to explore the Orinoco river, which he ascended as far as the mouth of the Meta. Subsequently the coast between the mouth of the Orinoco and Essequibo rivers, and the Orinoco basin as far up as the site of the present city of Bolívar, were partially colonized by Spanish subjects, who likewise established Christian missions among the aboriginal tribes in the remote interior.<sup>2</sup>

<sup>1</sup> Wharton's Digest Int. Law. vol. I., section 6; Wheaton's Elements Int. Law, Ed. 1863, sec. 6, and notes; Wheat. Reps. XII., p. 527.

<sup>2</sup> Ojeda skirted the entire coast of the Guayanas, landing at several places. (Dalton's Hist. Guiana, vol. I., p. 91; Robertson's America, II., p. 154.) Columbus discovered, but did not explore the Orinoco. Encountering much difficulty in entering the mouth of the great river, he sailed westward and landed on the continent at several places. (Robertson's America, II., Dalton's Hist. Brit. Guiana, Ed. 1855. Irving, Life of Columbus.) See also Gumilla's Atlas of 1740; Bretano's map of the Orinoco Valley, 1751; the treaty between Spain and Portugal of 1750, by which Spanish Guayana is described as extending from the Marañon (or Amazon) river to the margins of the Orinoco, and thence eastward and northward to the Atlantic ocean.



These are familiar facts of history. And it is a principle sanctioned by usage and consistently maintained by both England and the United States, that "continuity furnishes a just foundation for a claim of territory in connection with those of discovery and occupation." That is to say, the discovering nation is not limited in its claim to the particular spot discovered or occupied. Thus, in the case of an island, the discovery or occupancy of a part includes the whole; in the case of a river, the discovery and occupancy of its channels and banks extends to the entire region drained by it. But if this principle be admitted, it clearly establishes Spain's original, rightful claim, not only to all the Guayanas drained by the Orinoco and its tributaries, but to the whole of what is now known as British Guiana.

But some years after this discovery and exploration of the Guayanas by Spain, and during her long war with the revolted Netherlands, the Dutch obtained a foothold on the Atlantic coast, and established a few trading posts on the estuaries of the Essequibo, Surinam and Demerara rivers.<sup>1</sup> It is true, that at that time, the independence of the Netherlands, though recognized by some of the other powers, had not been acknowledged by Spain; and Holland, as a dependency of Spain, could not acquire this territory in her own right. But by the treaty of peace and recognition of 1648, usually referred to as the "treaty of Munster,"<sup>2</sup> each of the parties (Spain and Holland) were to remain in possession of the countries *then* in actual military possession of each in America and in the West Indies. This gave the Dutch a legal title to their *de facto* possessions on the coast and river estuaries of Guayana; but it likewise prohibited, by necessary implication, any subsequent *extension* of their settlements.

By the treaty of Utrecht, of 1713, England agreed to "aid the Spaniards to recover their ancient dominions in America," the limits of which were stated to be the "same as those in the time

<sup>1</sup> Reynal, "Hist. Indies," Ed. 1820. The Dutch never had any permanent settlements west of the Essequibo, nor on the river itself above tide-water. They made attempts to occupy the country between the Essequibo and the Pumaron, but were dislodged and driven out by the Spaniards. (See Dalton's Hist. British Guiana, p. 182, *et sequens* : Archivas de las Indias, Seville ; Archivo de las Semancas ; Fr. Pedro Simón, etc.

<sup>2</sup> Otherwise called the Peace of Westphalia, signed at Munster, Oct. 24, 1648, whereby the independence of the United Dutch Provinces was recognized by Spain. (See art. V. of the Treaty.)

of Charles the Second ;<sup>1</sup> and it is a fact of history, quite easy of verification, that, "in the time of Charles the Second" (1661-1700) Spain claimed and held possession of all the Guayanese territory west and south of the Essequibo river.<sup>2</sup>

Again, in the treaty of Aranjuez, of June 23, 1791, between Spain and Holland, for the extradition of fugitives, the limits of their respective territories and settlements are very clearly indicated by the clause which provided for an exchange of fugitives "between Puerto Rico and San Eustaquio, Coro and Curacão, the Spanish establishments in the Orinoco and Essequibo, Demerary, Barbice and Surenam." Thus, according to the maps of the country in use at the time, Spanish Puerto Rico was opposite Dutch San Eustaquio, Spanish Coro over against Dutch Curacao, while the Spanish settlements and Missions on the west side of the Essequibo were directly opposite those of the Dutch on the estuaries of that river. The inference is therefore an almost necessary one that the Essequibo river was the recognized legal boundary line between Spanish and Dutch Guayana.<sup>3</sup>

<sup>1</sup> Art. VIII., Treaty of Utrecht, July 13, 1713.

<sup>2</sup> Depon's Voyages, etc., vol. III., p. 333; Noire, the English geographer, Works, published in 1828; Baron Humboldt, Voy. Equinoctial Regions, vol. IV., p. 218. Noire, the English authority above cited, says: "British Guiana extends from the Corentin to the Essequibo. This is the rightful extent of the colony, as determined by the Treaty of Munster of 1648, *which has never been abrogated.*" The attempt by the Dutch to extend their settlements westward to the Pumarón was, he says, "in violation of treaty stipulations." . . . "In reality," he continues, "the entire coast country from the Orinoco to the Essequibo constitutes what should be called Spanish or Colombian (now Venezuelan) Guayana." See also Archive de las Indias, certified copies of which have been published in three vols. by the Venezuelan Government.

<sup>3</sup> The Spanish text is as follows: "Art.º I. Se establece la restitución reciproca de las fugitivos blancos ó negros entre todas las posesiones españolas en America y las colonias holandesas, particularmente entre aquellos en que las quejas de desercion han sido mas frecuentes, á saber, entre *Puerto Rico y San Eustaquio, Coro y Curacão, los establecimientos españoles en el Orinoco y Essequibo, Demerary, Barbice y Surinam.*" The italics and punctuation marks are as in the original.

Translated literally, it reads as follows: "Art. I. The reciprocal restitution of fugitives, white or black, is established between all the Spanish possessions in America and the Dutch colonies, particularly between those in which complaints of desertion have been most frequent, namely, between *Puerto Rico and San Eustaquio, Coro and Curacão, the Spanish establishments in the Orinoco and Essequibo, Demerary, Barbice and Surenam.*"

The sense is quite plain, namely, that as Puerto Rico was Spanish and San Eustaquio Dutch, Coro Spanish and Curacão Dutch, so were Spanish all the Orinoco "establishments" *up to the Essequibo, etc.* In other words, the Essequibo settlement was, and the Orinoco settlement was not, Dutch.

It is true that, before and subsequent to the date of this treaty, the Dutch attempted to make encroachments upon the territory west of the Essequibo; but all the chroniclers of the times agree that the intruders were promptly driven back by the Spaniards. And even if they had not been, there was not sufficient time in the twenty-three years from 1791 (the date of the treaty of Aranjuez) to 1814 (when the Dutch ceded the country to England) to give color of title by prescription. Title by prescription, even if admitted to be valid in such cases, must be from time immemorial, and the occupancy must have been undisputed, continuous and peaceable—conditions which were totally wanting in the present instance.

Not only is the Essequibo indicated as the dividing line by the extradition treaty of 1791, but no less clearly so by historical events which preceded and led up to it. Thus, in 1780, the Spanish Government directed the Governor-General of Venezuela to establish rules and regulations for peopling and governing the province of Guayana between the Essequibo and Orinoco rivers. This royal decree recited the fact that, although the Dutch had extended themselves on the coast, and on the estuaries of the Essequibo, there were "no Dutch settlements any where remote from the seacoast"; that westward from the Essequibo and southward from the Atlantic was "a vast and fertile region occupied by Indian tribes,<sup>1</sup> and by fugitive negro slaves from the Dutch settlements"; that this valuable domain belonged to Spain by right of original discovery and occupancy; and that as it had "never been ceded to or occupied by any European power," it ought to be colonized and governed in the name of the Spanish monarch.<sup>2</sup>

Furthermore, in accordance with the purposes of this decree, Don José Felipe de Inciarte was commissioned to investigate and report upon the condition and extent of the Dutch encroachments in Guayana. In due time he reported that the Dutch had an insignificant trading-post, apparently of a temporary character, on the coast between the Essequibo and Moroco rivers. He recommended their immediate expulsion and the establishment of Spanish forts in the vicinity. In a subsequent dispatch, dated

<sup>1</sup>There were as many as fourteen distinct tribes between the Essequibo and Orinoco rivers and between the Atlantic coast and the Brazilian border. (Brett's "Indian Tribes of Guiana," London, 1868.)

<sup>2</sup>Archivo de las Indias, Seville; Certified copies of which are now before the Commission.

December 5, 1783, he reported that the Dutch had "already abandoned their 'posts' near the mouth of the Moroco." It does not appear whether these abandoned "posts" were afterwards occupied by the Spaniards, nor is that essential to the merits of the case. The formal remonstrance by Spain, and the subsequent withdrawal of the Dutch, destroyed all color of title by prescription.<sup>1</sup>

It is quite manifest, then, that Great Britain could not have derived title to her present holding west of the Essequibo, much less west of the Pumaron, from the Dutch by the treaty of 1814. Nor can she justify her bold and persistent aggressions westward to the margin of the Orinoco, and southward in the Cuyuni basin, on the plea that any portion of either tract was ever in the uninterrupted or peaceable possession of the Dutch.

### III.

Still more untenable is England's claim to this territory on the ground of her alleged treaties with some native Indian tribes. Such a pretension may be said, without discourtesy, to be simply absurd. On the discovery of the American continent, the principle adopted by European nations, in order to avoid conflicting settlements and consequent wars, was that discovery gave title to the government by whose subjects or by whose authority it was made. The title thus acquired was good as against all other European governments, and might be consummated at any time by actual possession. It gave to the nation making the discovery the sole right of acquiring the soil from the natives, and of establishing settlements thereon. This was a right which all European nations asserted for themselves, and to the assertion of which all assented. Whatever may have been the rights of the native Indian occupants, the discovering nation claimed and exercised ultimate dominion over the soil while it was in their possession. It claimed and exercised the right to grant and convey the lands, subject only to Indian occupancy, and such grants have been uniformly held

<sup>1</sup>As a matter of fact, up to 1791, the Dutch never had any fixed settlements west of the Essequibo. The Dutch West India Company had some sort of a trading "post" there, from which predatory raids were made as far as the Moroco and Brazo Barima; but they were in each case driven away by the Spaniards. (See "Hist. Nueve Andalucia," by Caulin: also Archivo de las Indias, Seville.)

to be valid. It is no argument to say that the opinion of mankind has changed on this point with the progress of civilization; for if the truth of the assertion be granted, it would not affect rights previously acquired by the general consent of the civilized world. The right of nations to countries discovered in the sixteenth century is determined, not by the improved and more enlightened opinion of the world three and a half centuries later, but by the law of nations as it was *then* understood and universally recognized. This is a principle so fundamental, and so firmly established by usage, that it is no longer a matter for discussion.

Nor did the successful revolt of 1810 affect the title which Venezuela, by that act, derived from Spain. It is a principle of universal application that when a colony is in revolt, and before its independence has been acknowledged by the parent country, the colonial territory belongs, in the sense of revolutionary right, to the former, and in the sense of legitimate right, to the latter. "It would be monstrous," wrote Mr. Secretary Marcy in 1856, "to contend that, in such a contingency, the colonial territory is to be treated as derelict, and subject to voluntary acquisition by a third nation. The idea would be abhorrent to all the notions of right which constitute the international code of Europe and America."<sup>1</sup> And yet, astonishing as it may seem, the assumption that, pending a war of colonial revolution, all territorial rights of both parties to the contest become extinguished, and the colonial territory open to seizure by anybody, is sometimes made (as in the present case) about the only foundation for England's pretension of right to territory in South America.

Equally untenable is the contention that "Venezuela forfeited any color of title she may have had" to that territory "by her failure to occupy it;" for this would be about equivalent to saying that a nation forfeits legal title to her unoccupied domain whenever she is physically unable to prevent its forcible seizure by a stronger power. Such a proposition would shock the moral sense of the civilized world, and nullify the most elementary principles of pub-

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<sup>1</sup>Mr. Marcy, Secretary of State, Instructions to Mr. Dallas, U. S. Minister in England, July 26, 1856, U. S. Foreign Relations: Wharton's Dig., vol I., sec. 7.



lic law. "Everything included in the country pertains to the nation," says Vattel, "hence nobody but the nation, or its legal representative, is authorized to dispose of such things." And then, as if prescient of this very question in Guayana, the same eminent author adds: "If there be kept uncultivated and desert places, nobody has a right to take possession of them without the consent of the nation. Although the nation makes no actual use of its desert places, they nevertheless belong to it. It has interests in preserving them for future use, and is not responsible to any person for the manner in which it makes use of its property."<sup>1</sup>

Furthermore, in the Guyanas, no less than in other parts of the American continent, the right of discovery and conquest had been already exhausted in 1814, when the Dutch ceded these possessions in Guayana to Great Britain. There was no longer any territory open to conquest by European powers. For what subsequently became known as the Monroe Doctrine had a much earlier origin than the formal declaration of 1823. The principles then enunciated were not new. They had been coeval with the very existence of the United States government.<sup>2</sup> They were the logical sequence of the Declaration of Independence, and of the treaty of Ghent which followed. They were necessarily incident to the character of American institutions; clearly foreshadowed in the policy of Washington's first administration; distinctly outlined in his Farewell Address to the people of the United States; and were subsequently repeated and emphasized by John Quincy Adams, as Secretary of State, in his official conferences and protocols with the Russian Ambassador, Baron Tüyl. So that President Monroe merely formulated, in a timely message to Congress, an unwritten law of a fundamental character which had already become as sacred to the American people as the Constitution itself. European colonies already established and recognized were not to be interfered with. But "no new colonies" were to be established or recognized. Nor was there to be "any extension of existing

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<sup>1</sup>Vattel, *Law of Nations*, Book II., chap. VII., sec. 86.

<sup>2</sup>Tucker's *Monroe Doctrine*, pp. 12, 14, 21, 40, 111; Adams's *Memoirs*, 163.

colonial systems"; and, above all, "no interposition by European powers in the affairs of the Spanish American Republics."<sup>1</sup>

There is little room for construction in such declarations as these. There is no mistaking the plain and emphatic terms of such an inhibition. It clearly extended to all possible treaties or compacts with native Indian occupants, whereby new European colonies might be set up on this continent. It clearly comprehended all such treaties and compacts, real or pretended, whereby the area of existing European colonies might be enlarged. And it quite as clearly embraced all possible aggressions and usurpations whereby the territorial area and domain of existing European colonies might be augmented by mere *de facto* occupancy.

It has been said that the principles of the Monroe Doctrine were departed from, if not partially abandoned, in the unfortunate Convention of 1850, usually known as the "Clayton-Bulwer treaty." That compact is an admitted blunder; but it will bear no such construction as this. Neither Mr. Clayton nor the President, nor the slender majority of Senators who ratified that treaty, ever gave it that construction. The most that can be said, is that they were misled and deceived by statements officially made by the British minister, which, however, his government afterwards disclaimed; and that they were thus entrapped into a mere constructive recognition of the British *status quo ante* in Central America. And they were the more easily led into this mistake by an intense desire to stimulate a great international enterprise

<sup>1</sup>Tucker's Monroe Doct., pp. 17-20; Whart. Dig., sec. 57; President Monroe's annual messages, Dec. 2, 1823, and Dec. 7. 1824; Adams's Diary, VI., 163; President Polk's annual messages, 1845-48.

Under the Monroe administration, it was asserted "as a principle in which the rights and interests of the United States are involved, that the American continents, by the free and independent condition which they have assumed and maintained, are henceforth not to be considered as subjects for future colonization by any European power"; and that "we owe it to candor" to declare that "any attempt" on the part of European powers "to extend their system to any portion of this hemisphere would be considered as dangerous to our peace and safety." That "with the existing colonies or dependencies of any European power we have not interfered and shall not interfere"; but with respect to "Governments who have declared their independence and maintained it, . . . we could not view any interposition for the purpose of oppressing them, or controlling in any manner their destiny, by any European power, in any other light than *as the manifestation of an unfriendly disposition towards the United States.*"

at a time when the capital necessary to the success of such enterprises was difficult to obtain. Moreover, the Clayton-Bulwer treaty, if it was ever a legal compact (which is very doubtful), has been practically a dead letter since 1881-2, when it was officially denounced by the United States Government. But even if this were not the case, and the treaty were legal and in full force, it would, by its very terms, effectually debar Great Britain from her present *de facto* possessions in Guayana west of the Moroco river and in the Lower Cuyuni basin.

Again, it has been said that the Monroe Doctrine has no legal validity for lack of formal legislative sanction. Such an opinion merits very little consideration. In the first place, every Resolution on the subject introduced into either House of Congress has been in unqualified support of the Monroe Doctrine—not one of which was ever rejected. That of 1824, by Mr. Clay, never came to a vote; that of 1879, by Mr. Burnside, was merely referred to the appropriate committee, which failed to report before the close of the session; that of 1880, by Mr. Crapo, was unanimously and cordially sustained by the Foreign Affairs committee, but the session closed before the resolution could be taken up. In the second place, express legislative sanction has never been deemed necessary to the validity of the Monroe declaration. Every one knows that most of the rules of international law impose obligations derivable from precedent alone, and that as a precedent the Monroe declaration of 1823 has been very generally acknowledged and accepted. It has been confirmed by every subsequent President of the United States, and by every chief executive of every South America republic, who has ever had occasion to refer to it; and it has been persistently reiterated and upheld by publicists and statesmen of all political parties in both the Americas.<sup>1</sup>

<sup>1</sup>The House Resolution of 1826, on the subject of the Panamá Conference, constitutes no exception. That Resolution merely expressed the opinion that the United States ought not to be represented in the proposed conference "except in a *diplomatic* character"; that the United States "ought not to form any alliance" with the South American republics, but "be left free to act, in any crisis, in such manner" as our "feelings and honor might dictate." Looking back over the history of those times, it is easy to see the motive which prompted this Resolution, and why the Panama Conference failed. One of the questions proposed for its discussion was "the consideration of the means to be adopted for the entire abolition of the African slave-trade." Cuba and Porto Rico, then slaveholding provinces of Spain, would have been involved



Finally, to say that the Monroe Doctrine has no validity for want of express legislative sanction is to assume that President Washington's Farewell Address has none, for neither has that ever received any express legislative sanction; and yet every one knows that that Address has shaped the foreign policy of the United States for a whole century.

#### IV.

It is never a grateful duty to review, however dispassionately and impartially, a long and aggravated series of aggressions by the strong against the weak; and in the present case it is sincerely wished so unpleasant a task might be omitted entirely. But any account of the origin and history of this Guayana boundary dispute would be lamentably incomplete and defective without a brief review of the unsuccessful efforts that have been made to end it; and this necessarily accentuates a policy which, I regret to say, has too often characterized England's dealings with weaker powers.

A few years after the cession of 1814, some British traders established trading-posts and settlements on the Atlantic coast between the Essequibo and Pumaron rivers. This called forth remonstrances from the Colombian Government, which was, however, at that time too much occupied with internal strifes to pay much attention to foreign affairs; and thus this first of a long series of aggressions was met only by formal protest which seems to have been totally disregarded.<sup>1</sup>

in the discussion; Hayti, already a new Negro Republic, would have claimed the right of representation; and there were then about 4,000,000 negro slaves in the Southern States of the United States! Thus the necessity which then existed of preserving an institution under our Federal Constitution, lost to us the opportunity of giving permanent direction to the political and commercial connections of the newly enfranchised Spanish American States.

<sup>1</sup>See "Official History of the Boundary Discussion," part I. There can be no doubt that England's extreme pretension then extended no farther than the right banks of the Pumaron river. Her subsequent claim to the mouth of the Moroco seems to have been an afterthought. The "London Atlas of Universal Geography," even in as late an edition as that of 1842 (two years after the "Schomburgk line" had been run), represents the extreme western boundary of British Guayana to be the Pumaron river, and the area between that river and the Essequibo as "territory claimed by Venezuela." (See also Boddam-Wheatham's "Roraima and British Guinea," pp. 204 and 205; also Instructions by the Colombian government to its minister at London, issued in 1822. See also Myer's Geography, a semi-official English publication, in two large volumes, London, 1828.)

The next direct official reference to the subject was in 1840. Venezuela, which had been a separate Republic for about ten years, now earnestly remonstrated against these encroachments, and claimed the Essequibo river as the rightful boundary. No immediate attention was paid to this. But soon afterwards the British representative at Caracas gave notice that Mr. (afterwards Sir) Robert Schomburgk had been commissioned to "survey and mark out the boundaries of British Guayana." The assent and concurrence of Venezuela was not asked. It was purely an *ex parte* proceeding.

A few months later, when there had been some informal conferences on the subject, the British representative informed the Venezuelan minister of Foreign Affairs that the Demerara colonial government had been instructed from London to resist, by force if necessary, any aggressions on the frontier territories occupied by independent tribes of Indians!

Realizing at that time her utter inability to wage a successful war with so powerful a nation, Venezuela proposed some conventional agreement as to boundary. This proposition seems to have been treated with indifference. At any rate, Schomburgk went on with his survey, and finally completed and staked off the line which bears his name.

That line may be briefly described as follows: Beginning at the mouth of the Amacuro, it follows the left margin of that river to the 60th meridian. It then deflects in a circuit towards Mt. Arikita before again touching the 60th meridian, which it does near the 7th parallel. It proceeds thence southwestward, crossing the Cuyuni some thirty-five miles below the mouth of the Acarabisi, and the Mazaruni at the Great Bend, to Mt. Iritibu. It thence proceeds northeastward to Mt. Roraima, and thence in general direction northeast towards the Essequibo, apparently, however, without any well-defined terminus—thus allotting to Great Britain not only the entire Atlantic coast region between the Essequibo and the Orinoco, but also a large section of country in the interior between the Atlantic coast and the Imataca mountains.<sup>1</sup>

<sup>1</sup> This was the original "Schomburgk line." It has since been extended, from time to time, to suit British convenience. Thus, according to the official publications of the London Geographical Society, the difference between the "Schomburgk line" as it stood in 1875, and as it stood in 1895, is about seventy miles, involving a difference in area of about ten thousand square miles.

In January, 1844, when more moderate counsels prevailed, the British government very distinctly disavowed any intention to occupy this territory, or even to claim the "Schomburgk line" as a possible boundary. Lord Aberdeen, then Chief Secretary of State for Foreign Affairs, apologetically explained to the Venezuelan envoy, Dr. Fortique, that the so-called Schomburgk line was never designed to be other than "merely tentative"; that it had been marked out only "for convenience in future negotiations"; and as an evidence of his sincerity he officially disclaimed it in toto, and ordered its complete obliteration by the Demerara authorities. This clearly re-established the *status quo ante*, and limited the disputed territory to the narrow triangular strip of land between the Essequibo and Moroco rivers, with its apex near the junction of the Cuyuni and Essequibo. Subsequently, he proposed a boundary line, as follows: Beginning at the mouth of the Moroco river and running southward in general direction to the junction of the Barama and Aunama rivers; thence southeastward to the Lower Cuyuni; thence along the western margin of the last named river to where it receives the waters of the Yuruari; thence eastward, following the general direction of the Cuyuni, to near Mt. Roraima; and thence in general course due eastward to the Essequibo.<sup>1</sup>

This proposition, though very disadvantageous to Venezuela, in that it would have deprived her of an immense territory which rightfully belonged to her, would, in all probability, have been accepted as a compromise had it been made in a different spirit and without humiliating conditions. But, in substituting it, Lord Aberdeen said his government was "disposed to *cede* to Venezuela" the territory beyond the line indicated, "on the condition that she would enter into an obligation not to alienate any portion of it to a third party"; and on the further condition that "the Indian tribes therein be not oppressed or maltreated" by the Venezuelan authorities! As this involved "an acknowledgment of territorial rights in Guayana which Great Britain did not

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<sup>1</sup> See map in "Off. Hist. Discus." This is substantially the line suggested by Mr. E. F. im Thurn, a high official of British Guayana, as late as 1881-2.

possess, and contained besides a restriction derogatory to the sovereignty of the Republic," it had to be rejected.<sup>1</sup>

Negotiations, were, however, continued until the sudden death of the Venezuelan envoy, Dr. Fortique, when they were resumed at Caracas. The final result was the Diplomatic Agreement of 1850, by which each party was obligated not to occupy any part of the unoccupied territory in dispute till the question of boundary should be definitely settled.<sup>2</sup>

Where, then, was this "unoccupied territory in dispute"? The question is an important one in view of events which followed. That Venezuela understood it to be limited to the area between the Moroco and Essequibo, already described, hardly admits of a rational doubt; and there is quite as little doubt that the British government understood the Agreement in a like sense. However, some years later, under change of administration, each party accused the other of trespass, and of thus violating the compact of 1850.

Thus the matter stood in May, 1879, when Dr. Rojas, the Venezuelan minister at London, addressed a note to Lord Salisbury urging some pacific termination of the question of boundary, intimating a willingness, at the same time, to accept any compromise line consistent with honor, reason and justice, and requesting the submission of proposition for final settlement.

After a delay of nearly eight months, Lord Salisbury, then Chief Secretary of State for Foreign Affairs, replied, in a note dated January 10, 1880, that, as any discussion of the legal aspects of the question would not be likely to have satisfactory results, he preferred the alternative of some compromise settlement. He said that England claimed, "in virtue of ancient treaties with the aboriginal tribes," and of "subsequent concessions from Holland," all the territory on the coast between the mouths of the Essequibo and Orinoco rivers; and all the territory in the interior north and

<sup>1</sup> But even these conditions, unjust and humiliating as they were, might have been accepted for the sake of peaceful settlement but for the fact that the British government refused to make the obligation mutual. (See "Brit. Boundaries of Guayana," by Dr. R. F. Seijas, pp. 170, 176; also Official Memorandum by Dr. Rafael Seijas, of July 15, 1882.)

<sup>2</sup> See "Official Hist. of the Discussion."

east of a line from Point Barima to the mountains of Imataca, and thence to the table-lands of Santa Maria, the Coroni river, and the mountains of Roraima and Picaraima! That is to say, the claim had so grown as to include not only all the territory within the original "Schomburgk line," so distinctly disclaimed by Lord Aberdeen in 1844, but a vast and fertile region many leagues beyond it. Referring to Venezuela's claim that the Essequibo river was the ancient boundary between the Dutch and Spanish possessions, he said Great Britain already had some "forty thousand subjects" living west of that river, and that it could not be considered as a possible boundary; but that he would consider any feasible proposition of compromise that might be submitted by the Venezuelan government.<sup>1</sup>

Dr. Rojas replied, April 12th, that he was authorized to waive the question of strict legal right, and to adjust the dispute on some basis of compromise. He therefore inquired whether the British government was then disposed, as it has been as late as 1844, to accept the Moroco river as a conventional boundary line.

Lord Salisbury replied, some two weeks later, that the Attorney-General of British Guayana was expected in London very soon, and that it was desirable to postpone the discussion until his arrival.

The Attorney-General did not arrive until November following; and it was not until February of the next year that Dr. Rojas received Lord Salisbury's reply, which was, in substance, that he could not accept the Moroco river as the boundary on the coast, but would consider any conventional line beginning further westward.

Nine days later Dr. Rojas proposed, as a compromise, a conventional boundary line beginning on the coast one mile westward of the mouth of the Moroco, extending thence westward to the sixtieth meridian, and thence in general direction eastward

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<sup>1</sup>This proposition by Lord Salisbury is a most astounding one, not only from a historical point of view, but no less so from the legal aspects of the case. Reasons of mere internal convenience may be applicable in a division of property held jointly; but they are hardly applicable in cases like this, where the question at issue is one of boundary between two contiguous free States. Still less is it applicable for the purpose of enabling one of the parties to take advantage of its own wrong.



to the Essequibo river. In submitting this proposition, he said that in case it should not be accepted, he saw no prospect of settlement except by friendly arbitration of the whole question, which he then proposed.

A change of ministry soon followed, and Lord Granville, as the successor of Salisbury, declined to consider Dr. Rojas's proposition; but in a personal conference which followed, in September, 1881, his lordship proposed, as a substitute, the following line:

Beginning twenty-nine miles northeast of the mouth of the river Moroco, and running thence southward to the crest of Mt. Yarikita, on the eighth parallel, north latitude; thence west, south west to a point near where the original Schomburgk line crosses the Acarabisi river; thence along the Acarabisi to its confluence with the Cuyuni; thence along the Cuyuni to near its source; and thence in direct line eastward to a point where the Schomburgk line intersects the Essequibo.<sup>1</sup>

As this could not be accepted by Venezuela, Dr. Rojas again proposed arbitration. This met with no immediate response.

As late as 1885, the British government agreed to unite the boundary dispute with the controversies growing out of the thirty per cent. duty on imports from the British Antilles and certain indemnity claims by British subjects against Venezuela, and to refer the whole to arbitration.<sup>2</sup> But a change of ministry occurred soon afterwards; and Lord Salisbury, who had again came into power, flatly refused to ratify the agreement of his immediate predecessor, made only seventy-two days before!<sup>3</sup>

Subsequently, when Venezuela again recalled attention to the boundary dispute, and again proposed its reference to arbitration, Lord Rosebery, who had become Chief Secretary of State for Foreign Affairs, proposed a conventional boundary line,<sup>4</sup> coupled with a condition that the Orinoco river be declared open

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<sup>1</sup>See map in Official Hist. of the Discussion.

<sup>2</sup>See Earl Granville's note dated May 15, 1885, to Gen. Guzman Blanco. "Official Hist. Discus," etc.

<sup>3</sup>See Lord Salisbury's note of July 27, 1885, to Gen. Guzman Blanco, Off. Hist. Dis.

<sup>4</sup>See map in "Official History of the Discussion," etc.

and free to British merchant vessels. This was rejected by the Venezuelan government, which again proposed arbitration.

In the meantime, the Demerara authorities took formal possession of all the territory within the "Schomburgk line"; and in 1885-6, the British government established fortifications at Barima Point, and posted notices at the mouth of the Amacuro river, announcing that the whole country was within British jurisdiction! Venezuela, now thoroughly alarmed, demanded the immediate evacuation of these places and the restoration of the *status quo* of 1850, in order that the question of boundary as a whole might be properly submitted to arbitration. These demands were not complied with, and the proposition to refer the dispute to arbitration was received with haughty indifference. The result was that, in February, 1887, Venezuela declared all diplomatic relations with England suspended.

Since then, however, Venezuela has made repeated efforts to have the *status quo* of 1850 re-established, and the question of boundary referred to friendly arbitration. Thus in 1891, she commissioned Dr. Lucio Pulido, one of her most distinguished citizens, as Plenipotentiary *ad hoc*, and as Envoy Extraordinary and Minister Plenipotentiary to the English government. In the character first named, he was authorized to re-establish diplomatic relations, if happily that might be accomplished through the good offices of the United States, which had been previously tendered; in which case, he was to at once assume the character last named, and open negotiations for the final settlement of the boundary dispute by friendly arbitration. In case the British government should refuse to entertain these overtures, he was instructed to say, first orally, and then in an official note, that "Venezuela might have to submit, as France had done, to dismemberment by war in which she might be overcome by superior force, without, however, surrendering her right of recovery; but that in no case would she submit to such dismemberment in time of peace by systematic usurpations of her territory."<sup>1</sup> His mission failed and he returned home. But yet

<sup>1</sup> Libro Amarilla of Venezuela, 1891, series B. C. V.; also "Official History of the Discussion," etc.

again, as late as May, 1893, Venezuela proposed (through her confidential agent at London, Dr. Michelena) a preliminary agreement on the following basis:

1. Renewal of official relations; after which each Government to appoint one or more delegates invested with full powers to negotiate a treaty of boundaries; all points of difference on which the delegates might not be able to agree, to be referred to an *arbiter juris*, to be named by mutual concert of both Governments:

2. Venezuela to agree to the conclusion of a new treaty of commerce revoking the thirty per cent. duty on imports from the British West Indies, and substituting a duty of limited duration, such as that proposed by Lord Granville in 1884-5:

3. All existing claims by British subjects against Venezuela to be referred to a commission *ad hoc*; all such claims arising in the future to be adjudicated by the Federal Supreme Court, as the Constitution of the Republic provides:

4. Both Governments to acknowledge and declare the *status quo* of 1850; the same to be maintained until the boundary question should be finally settled as provided for in item number 1:

5. The preliminary agreement, on the basis thus indicated, to be forthwith submitted to the ratification of both Governments; and after the exchange of ratifications, the diplomatic relations between them to be considered re-established *ipso facto*.<sup>1</sup>

This proposition was not replied to by Lord Rosebery until the 3d of July following, and then only in part. He objected to it on the ground that it involved a reference to arbitration, "which practically reduced it to a form which had been repeatedly declined by Great Britain." As to the *status quo* of 1850, "that," he said, "was quite impossible; Great Britain declined to evacuate what had been for years constituted an integral portion of British Guinea." He could accept no *status quo*, "except that now existing." He therefore proposed that both gov-

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<sup>1</sup>Memorandum by José Andrade, Venezuelan minister at Washington, March 31, 1894, published in "Foreign Relations of the United States," pp. 810-840; also "Official History of the Discussion," etc.







ernments agree (as soon as official relations should be re-established) that one or more delegates be named by each with full power to conclude a frontier treaty; "it being agreed that the territory in dispute lies west of the line laid down in the map communicated to the Government of Venezuela on the 19th of March, 1890,<sup>1</sup> and to the east of a line, to be marked on said map, running from the source of the river Cumano down that stream and up the Aima, and so along the Sierra of Usupamo, and that the decision of doubtful points, and the laying down of a frontier on the line of which the delegates may be unable to agree, shall be submitted to the final decision of a judicial arbitrator, to be appointed, should the case arise, by common agreement between the two governments."<sup>2</sup>

An examination of the map here referred to shows this proposition to have been simply monstrous. Its acceptance could not have been expected. It was very much less favorable to Venezuela than that made to Dr. Pulido by Lord Salisbury in 1890, which, in its turn, was very much less favorable than that made by Lord Rosebery himself in 1886. Having rejected both of these, Venezuela could not accept a third which was infinitely more objectionable than either. Dr. Michelena, however, in communicating his refusal, expressed a hope that the British government would consent to resume the discussion of a preliminary agreement with a view to friendly arbitration of the whole question at issue.

In his reply, dated September the 12th, Lord Rosebery said that it did not appear to Her Majesty's government that there was a way open for any agreement which they could accept con-

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<sup>1</sup> See map, reproduced in miniature, on opposite page.

<sup>2</sup> Translated into plain language, the proposition was about this: That Great Britain's monstrous claim to the territory in dispute be conceded as a *condition precedent* to the arbitration of the question as to whether Venezuela is entitled to any territory in Guayana not hitherto in dispute! When the British official publication known as the *Statesman's Year Book*, came out in 1877, it gave the area of British Guinea at 76,000 square miles. When the same publication came out some years later, it placed that area at 109,000 square miles. This was certainly a convenient method of acquiring 33,000 square miles of territory, the title to which must be regarded as too sacred to be inquired into by an arbitral commission!

cerning the question of boundary, but that they were disposed to give "their best attention to any practicable proposals that might be offered," etc.

On the 29th of the same month, Dr. Michelena replied to this, expressing his deep regret that the condition of affairs remained subject to the serious disturbances which the *de facto* occupancy and arbitrary proceedings of Great Britain could hardly fail to produce ; and protested, in the name of his government, that Venezuela would never consent that such occupancy and proceedings should be adduced in evidence to legitimize an usurpation of her territorial rights and jurisdiction.

Thus ended the last effort at direct negotiations between the two governments looking to some satisfactory termination of the controversy.

## V.

From this brief review of the case, it will be observed that, previous to the year 1840, Great Britain had not extended her occupancy beyond the Moroco river, nor even intimated a purpose to lay claim to any territory beyond it. Suddenly, in the latter part of that year, she made an attempt to extend her occupancy westward and southward as far as the mouth of the Amacura river, where she arbitrarily fixed the starting point of a frontier line. In 1844, she receded from this position, disclaimed the Schomburgk line, ordered it obliterated, and proposed what afterwards became known as "the Aberdeen line," beginning near the mouth of the Moroco river. In 1881, she again removed the starting point of a divisional line to a distance of twenty-nine miles west of the Moroco river, generally referred to as "Lord Granville's line." In 1886, she again shifted position and proposed what is known as "the first Rosebery line," beginning west of the Guaima river. In 1890, she shifted position again and proposed "the Salisbury line," beginning at the mouth of the Amacuro river—thus claiming control of the main outlet of the Orinoco. Finally, in 1893, still advancing westward and southward into what had never before been disputed

as Venezuelan territory, she proposed a boundary line from the mouth of the Amacuro river, running so as to include the headwaters of the Cumano and the Sierra of Usupamo.<sup>1</sup>

These facts carry their own comment. Studied in connection with any good map of the country, they have a startling significance. The South American continent, by its peculiar configuration, is naturally divided into three immense valleys—the Orinoco, the Amazon, and the Plata. Each of these valleys is, in itself, a complete network of fluviate navigation, open from the sea to the remote interior. Those of the Guayaquil, Atrato, and Magdalena are of but little consequence in comparison, for the chain of the Andes, extending from Patagonia along the Pacific, and thence eastward along the Caribbean to the Gulf of Paria, constitute a natural barrier to the interior. But there are no mountain chains traversing the continent from east to west; no such barriers to communication between the great valleys of the Orinoco, Amazon, and Plata; and those three immense rivers communicate by distinct bifurcations. Hence the dominion of the mouth of either by such a power as Great Britain would, in the course of time, and almost as a natural consequence, open the way to pretensions over the others.

But, to keep strictly within the range of the present discussion, take, for example, the mouth of the Orinoco, so long coveted by England. That immense river is navigable by the heaviest naval vessels as far up as the city of Bolivar, nearly four hundred miles from the ocean; and within this distance the river receives the waters of some twenty other navigable streams. Above that point the Orinoco receives, on its eastern side alone, some ninety other rivers, one of which is navigable to the Rio Negro, and

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<sup>1</sup>Speaking of this last phase of this flexible British claim, and which led to the rupture of 1887, Mr. Bayard, then Secretary of State, in an instruction to Mr. Phelps, the U. S. Minister at London, said: "The claim now stated to have been put forth by the authorities of British Guinea necessarily gives rise to grave disquietude, and creates an apprehension that the territorial claim does not follow historical traditions or evidence, but is apparently indefinite. . . . If, indeed, it should appear there is no fixed limit to the British boundary claim, our good disposition to aid in a settlement might not only be defeated, but be obliged to give place to a feeling of grave concern." (See U. S. "Foreign Relations.")

thence to the navigable affluents of the Amazon; while on its western side, above the point named, it receives the waters of thirty-one more, many of which are navigable, and extend to the far interior of the continent. Thus, the Apure, which traverses the very heart of Venezuela, is navigable for about four hundred miles from its mouth and has its source in the great central range of the Andes near the Colombian border. The Meta, which is navigable as far up as Villavicencia, only a few leagues from the city of Bogotá, has its source in the center of the Republic of Colombia. The Guariare, another navigable river, has its source in the central range of the Andes; and the Inriade, another considerable river, extends to within a few miles of the Colombian and Brazilian borders.

It will be seen at a glance that the navigable outlet of the Orinoco is the key to more than a quarter of the whole continent; and that its dominion by Great Britain could hardly fail, in the course of a few decades, to work radical changes in the commercial relations and political institutions of at least three of the South American republics.

Take another feature of the controversy, not very conspicuous in itself, but which may serve to interpret the motives behind these British aggressions in the Orinoco valley. In 1802, England's military occupancy of the island of Trinidad was confirmed by the treaty of Amiens, and thus became *de jure* as well as *de facto* British territory. On the extreme northwest side of the gulf of Paria, near its navigable entrance from the Atlantic, is a small, uninhabited island, known as Patos, or "Duck island." It is very much nearer the mainland than it is to the island of Trinidad, and had always been regarded as Venezuelan territory.<sup>1</sup> But in 1859, very much to the surprise of everybody, the British colonial authorities of Trinidad demanded the surrender of some smuggling crafts which had been captured there. The Trinidad au-

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<sup>1</sup> The West India Atlas," compiled from "official surveys," and published by Whittle and Lowrie, London, in 1878, shows the island of Patos to be on the extreme west (or Venezuelan) side of the western navigable channel of *Boca de Dragos*, and that the island is at least a third nearer the Venezuelan mainland than it is even to the little island of Cachacarrea, off the west coast of Trinidad.



thorities attempted to justify this extraordinary demand by the plea that Patos had been previously leased by the municipality of the Port-of-Spain to some British subjects! In the course of the diplomatic correspondence which followed, the island of Patos was boldly claimed as British territory, on the pretension that its dominion was included in the cession of 1802. The absurdity of this claim is manifest from the very terms of the treaty itself; for the cession was limited to "the island of Trinidad." Nor can the claim be established on the principle of proximity; for it is a generally recognized doctrine that small islands in the sea belong to the nearest continent. All standard authorities are agreed that the territory of a nation includes the islands surrounded by its waters, and that its dominion over its seacoast is coextensive with the projectile range of its weapons. Moreover, it was this very principle, namely, that islands in the sea belong to the nearest continent, which caused the ownership of the island of Avés to be decided in favor of Venezuela in 1865, notwithstanding the proximity of that island to two Dutch islands and its very great distance from the Venezuelan coast. The question of ownership having been raised, was referred to arbitration; and the principal arguments adduced, and those on which the decision was based, were, that the island was discovered by the Spaniards, that the Venezuelan coast was the nearest continent, and that these facts gave title to Venezuela as the successor of Spain.

While the little island of Patos may be of insignificant value, it is so situated as to command an available entrance to the gulf of Paria from the Atlantic, and is, therefore, in a very important sense, the key to the gulf which commands the Orinoco delta. hence the attempt to wrest it from its legitimate owner should be considered in connection with the efforts to obtain control of that great river.

## VI.

Through considerations of prudence, Venezuela has not hitherto sought to repel these aggressions by the means usually

adopted in the last resort. She has preferred rather to suffer temporary inconvenience and wrong, and to appeal to the moral sense of the civilized world, hoping that some honorable termination of the dispute by arbitration might be brought about through the mediation of friendly powers.

The United States government has not been indifferent to these appeals; nor could it afford to be in view of its well known policy and traditions relative to the South American republics. Time and again, it has delicately and courteously tendered its good offices as the impartial friend of both parties. It has gone further and made formal offer of its services as arbitrator, if acceptable to both parties. And it did this with the less hesitancy because the dispute turns exclusively upon simple and readily ascertainable historical facts. Ten of the other American Republics—to wit: Mexico, Chili, Colombia, Ecuador, the Argentine, Guatamala, Salvador, Nicaragua, Costa Rica, and Hayti—not to mention Spain, one of the oldest monarchies of Europe—have each separately addressed the British government in a like sense. And one of the very last public acts of the Fifty-third Congress of the United States was the passage, without a dissenting vote in either House, of a Joint Resolution earnestly recommending, specifically and by name, the reference of this identical boundary dispute in Guayana to friendly and impartial arbitration.<sup>1</sup>

Briefly summarized, the historical facts upon which the adverse parties predicate their respective claims are as follows:

1. Venezuela, as the legal successor in title of Spain, supports her claim by the Spanish colonial archives, of Seville, covering a period of nearly three hundred years from the date of the first

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<sup>1</sup> H. Res. 252, 53d Cong., 3d Ses.; Approved Feb. 20, 1895. The text of the Resolution (omitting the preamble, which had been passed by the House, but was stricken out by the Senate) is as follows:

“Joint Res. No. 14, relative to the British-Guiana-Venezuela boundary dispute.

“*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President's suggestion, made in his last annual message to this body, namely, that Great Britain and Venezuela refer their dispute as to boundary to friendly arbitration, be earnestly recommended to the favorable consideration of both the parties in interest.”



discovery of the country; by the treaty of Münster of 1648; by the treaty of Utrecht of 1713; by the note of the Governor of Cumina, to the municipal Council, of February 1, 1742; by the treaty of 1750, between the Portuguese and Spaniards; by the reply of the Governor of Cumana to the note of the Director-General of the Dutch colony of Essequibo, dated September 30, 1758; by the two Royal Cédulas of 1768; by the official declaration of the Spanish Cabinet in 1769, rejecting the pretension of right by the Dutch to fish near the mouth of the Orinoco; by the instructions of the Royal Intendency in 1779, for peopling eastern Guayana; by the Royal Order of 1780, directing the founding of the town of Don Carlos; by the official Report of Don Antonio Lopez de la Puente, commissioner for the exploration of the Cuyuni river, February 26, 1788; by the treaty of Aranjuez, of June 23, 1791, between Spain and Holland; by the note of the Secretary of the Dutch West India Company to the Spanish minister in Holland, January 8, 1794; by the treaty of August 13, 1814, between England and Holland; by the official request, made in writing, by the British minister at Caracas, May 26, 1836, that Venezuela would establish lighthouses and beacons at the mouth of the Orinoco, and at Barima Point, thereby acknowledging Venezuelan jurisdiction; by the official dispatch of the Governor of Demerara, September 1, 1838; by the note of the Venezuelan Governor of Guayana to the federal government at Caracas, dated August 23, 1841, attesting the acknowledgment, by a British law court in Demerara, of Venezuela's rightful jurisdiction over the Moroco river; by a similar act of recognition as late as 1874, growing out of a homicide committed by a British subject named Thomas Garret; by the apologetic disclaimer of the Schomburgk line made to Dr. Fortique by Lord Aberdeen, January 31, 1842; by the Aberdeen proposition of 1844; and in short, by the publications of every explorer, geographer, cartographer and historian who has ever written on the subject, from Sir Walter Raleigh and Captain Keymis to Noire and Humboldt.

2. Great Britain, as successor in title of Holland, supports her claim to the same territory by the alleged fact that two forts, called

"New Zealand" and "New Middleburgh," were erected by the Dutch on the Pumaron river in 1657; by alleging Dutch settlements or "posts" in the Cuyuni valley; by concessions granted by a Dutch Company, as successor, in 1674, of the Dutch West India Company, for trading with the colonies of Essequibo and Pumaron; by a reputed battle between the Dutch and Spaniards at fort "New Zealand" in 1797, in which, it is claimed, the latter were defeated and driven away; by some alleged concessions from Holland subsequent to the cession of 1814; and by some pretended treaties with native Indian tribes (names and dates not given) whereby she claims to have obtained title to the soil and sovereignty over the territory;<sup>1</sup> and, more recently, by *de facto* occupation and settlement of certain districts in the disputed territory.

Surely nothing could be more natural, or simple, or fair, or more in accordance with modern international usage than the reference of a dispute like this to friendly and impartial arbitration. Such controversies are in constant process of settlement by joint commission or by outside friendly arbitration; and this is all that Venezuela asks, or has ever asked since 1844. Conscious of the inherent justice of her case, she is ready to rest it upon the historical evidence adduced, and to scrupulously abide by a decision of an impartial tribunal.

How very different has been the attitude of England! As if conscious of the monstrous injustice and inherent weakness of her claim, she persistently refuses to submit it to arbitration. And, disregarding all remonstrances, rejecting all offers of friendly mediation, and apparently indifferent to the opinion of the civilized world, she has, by a long series of encroachments, absorbed not

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<sup>1</sup>This seems almost incredible; yet see Lord Salisbury's note to Dr. Rojas, January 10, 1880. The date and character of those "subsequent concessions from Holland" are strangely omitted. Holland's title to the colonies of Demerara, Essequibo, and Berbice was in virtue of the treaty of Munster, of 1648. These, and these only, were ceded to England by the treaty of 1814; Holland retaining only the colony of Surinam, to the eastward, which she still owns. As she had no settlements west of the Essequibo colony, nor subsequently acquired any, it is not quite clear how she could have made "subsequent concessions" of what she never possessed. As to England's claim to territory "in virtue of ancient treaties with aboriginal tribes," that can hardly be taken seriously. She might, with quite as much reason, set up a claim to Oregon and Alaska, or in fact to any portion of the western domain of the United States. (See *supra*, p. 16.)

only the whole of the territory originally in dispute, but extended her occupancy far beyond it, and set up a *de facto* government within what she herself has more than once, and in more forms than one, acknowledged to be Venezuelan territory.<sup>1</sup>

In view of these facts, so easy of verification, the matter has become one of very grave concern, not only to all South Americans, but to the people of this country as well. The principle here contended for by England, namely, that territorial sovereignty and dominion were transmitted to her by "ancient treaties with aboriginal tribes," would, if once admitted, unsettle titles to half the continent. It would not only destroy the territorial integrity and sovereignty of nearly all the South American republics, but would invalidate the title of the United States to the territory of many of our present commonwealths, and to more than half our public domain in the northwest.

Let it be borne in mind also that the country which is being thus ruthlessly despoiled of its territorial sovereignty is not in some remote and inaccessible corner of the earth with which we neither have, nor hope to have, any very direct political or commercial relations. On the contrary, it is the nearest of all our South American neighbors. Its political capital, one of the most beautiful and attractive on the continent, is less than six days' journey from Washington city. Its commercial marts, second to none on the Caribbean shores, are directly opposite ours on the South Atlantic and Gulf coasts, and distant from them less than five days' sail. Even the harbors and inlets of Guayana and the Orinoco delta are only about five and a half days' sail from New York. It is the only South American republic with which we are in direct and regular weekly communication by an American line of steamships. Its people are among the most intelligent and progressive in all Latin America. And our commerce with it is now about double in bulk and value of our trade with any of the other trans-Caribbean free States. These conditions alone, even if others were wanting, could hardly fail to inspire our sympathy and enlist our active interposition.

But there are higher considerations than these. All standard

<sup>1</sup>See "Official Hist. Discus. of the Boundary Question," containing all the early correspondence on the subject.

authorities are agreed that when the territorial acquisitions and foreign relations of a nation threaten the peace and safety of other states, the right of intervention is complete. It then becomes a moral duty to interfere to prevent the threatened mischief, rather than wait till the mischief is accomplished and then interpose to remedy it. "It is," says a high English authority, "only the shortsighted and vulgar politician who holds that a nation has no concern with the acts of its neighbors, and that if the wrong be done to others and not directly to itself, it cannot afford to interfere."<sup>1</sup> The stupidity of such a policy has been sometimes illustrated in modern history, but never as yet in the history of the United States. Early in the beginning of the present century, inspired by our successful example, the Spanish-American colonies threw off the yoke of European serfdom, and became free and independent States. Very soon thereafter, an Alliance was formed by the three principal powers of Europe, the ulterior purpose of which was the reconquest of those colonies and their partition among the signatory powers. This bold scheme was defeated, and the new Republics saved from the fate of Poland only by the timely and determined intervention of the United States. That was at a time too, when our territorial area and population, and our national wealth and resources, were considerably less than one-fifth of what they are to-day. And yet that act of intervention for the maintenance of a great American doctrine, and for the preservation of the sovereignty and territorial integrity of our sister Republics of the South, so far from being characterized as "jingoism," has ever been applauded as one of the wisest and most conservative in our national history.

Surely, the doctrines then officially proclaimed, with the subsequent concurrence and cordial support of England herself, have lost none of their force and importance by the lapse of time ; and by every consideration of reason and justice, both governments ought to be as much interested now as ever in the conservation of a status the wisdom of which has been demon-

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<sup>1</sup>Phillimore, *Int. Law*, vol. I., part IV., chap. I.

trated by the experiences of three-quarters of a century. An abandonment of those principles now by the United States, or a repudiation of that status now by England, would not only be an act of bad faith, dishonorable to both, but would involve international disputes and complications the end and consequences of which are beyond reasonable conjecture.

Still, if England should finally decide upon this course, and under the flimsy pretext of a boundary dispute of her own seeking, and which she has hitherto obstinately refused to adjust upon any just and reasonable basis, should persist in her efforts to extend her colonial system within the territory and jurisdiction of an independent American Republic, that fact would be but an additional reason, if any were necessary, why the United States should reaffirm, and maintain at all hazards, the principles of the Declaration of 1823. The only alternative would be an explicit and final abandonment of those principles; and that would involve a sacrifice of national honor and prestige such as no first-class power is likely ever to make, even for the sake of peace.

## PART II.

## LORD SALISBURY'S MISTAKES.

In his official note of the 26th of November, 1895, intended as a reply to Mr. Olney's of the 20th of July, previous, Lord Salisbury makes some very surprising statements relative to the boundary dispute with Venezuela, which, in all probability, he would not be willing to repeat now; but since they remain without material qualification or amendment, they seem to demand some notice.

He states, for instance, that the boundary dispute "did not, in fact, commence till after the year 1840"; that "the title of Great Britain to the territory in question is derived, in the first place, from conquest and military occupation of the Dutch settlements in 1796"; and that "both on this occasion, and at the time of a previous occupation of those settlements in 1781, the British authorities marked the western boundary of their possessions as beginning some distance up the Orinoco beyond Point Barima, in accordance with the limits claimed and actually held by the Dutch."

In the first place, it is hardly necessary to point out that the dispute began at a much earlier date than 1840. It began as early as 1822, when the Colombian Confederation, of which Venezuela was then a constituent member, instructed its Minister at London to notify the British Government that any English settlers west of the river Essequibo would be expected either to retire or place themselves under the jurisdiction of the Colombian authorities.<sup>1</sup> Circumstances soon arose which made it impracticable, for the time being, to carry out these instructions, but that did not alter their plain import. The manifest object was to claim, as the legal successor in title of Spain, all territory west of

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<sup>1</sup> See Official Hist. of the Discussion, p. 1.



the Essequibo, which since the treaty of 1791, had been regarded as the true boundary between Spanish and Dutch Guayana. The dispute arose again in 1836, as appears from the official note of the British Minister in Caracas, dated May 14th of that year, addressed to the Venezuelan Government. Moreover, it is very well known that, even as late as 1836, England's extreme claim, as the successor in title of Holland, did not extend westward beyond Cape Nassau and the Pumaron River, nor southward on the Cuyuni above the first falls.

It is true that what was known as Dutch Guayana had been at one time the property of the Crown of England, and that the English had made some settlements on the Surinam River. But in the time of Charles II, these settlements were captured and held by the Dutch in retaliation for the British capture and occupancy of the Dutch settlements in what is now the State of New York. In February, 1674, the Dutch obtained a cession of all the British possessions in Guayana in exchange for those of Holland in North America. This, of course, left England without claim to any territory in Dutch Guayana, which was then limited to the settlements or "establishments" ceded to Holland by Spain by the treaty of Munster in 1648.

The subsequent military occupations of those settlements by the British in 1781, in 1796, and again in 1803, to which Lord Salisbury refers, conveyed no permanent title. Military occupants of a country captured in war may collect imports and exercise local authority and jurisdiction; but they can neither alter its boundaries nor perform other acts which involve the right of international domain. They cannot sell any portion of the territory so held, nor hypothecate it, nor dispose of it in any manner. Their power is transitory merely, dependent upon the fortunes of war, and "expires upon the termination of the occupancy, which leaves no trace of title behind it." In the present case, all the territory so held by Great Britain in Guayana was restored to Holland by the treaty of Amiens in 1802, and subsequently by the treaty of London in 1814. Moreover, any extension, or attempted extension, of those Dutch settlements while in the military possession of Great Britain, would have

been in open violation of the treaty of Utrecht of 1713; for in that treaty, which was still in force, England was obligated to "aid the Spaniards to recover the ancient limits of their dominions" in America and the West Indies "as they stood in the time of the Catholic King Charles II.;" that is to say as they stood in the year 1700, when Charles II. died.

That Dutch Guayana was then limited to the four "establishments" or settlements of Surinam, Demerara, Berbice, and Essequibo, scarcely needs to be pointed out; and all standard geographers agree that the province of Berbice extended from the Surinam to the Berbice River, that of Demerara from the Berbice to the Demerara River, and that of Essequibo from the Demerara to the Essequibo River.

That previous to the treaty of Aranjuez of 1791, the Dutch did make, in violation of the treaty of 1648, spasmodic efforts to extend their settlements beyond the Essequibo, is not denied. They had two temporary outposts on the left bank of the Pumaron, near its mouth, and attempted to found settlements near Cape Nassau. But these aggressions were always repelled by the Spaniards; and in point of fact, those settlements, and also the frontier posts on the Pumaron, had been abandoned by the Dutch in 1783, as appears from the official report of Don José Felipe de Inciarte of December of that year.<sup>1</sup> And this is confirmed by Dutch testimony of the most unimpeachable character, as may be seen by reference to the note of a Dutch official (Mr. Six), of 1794, addressed to the Spanish Minister in Holland.

In 1803 the three settlements or colonies of Essequibo, Berbice, and Demerara capitulated successively to the English, who, later on, held military possession of the whole of Dutch Guayana. But by the final treaty of peace, of August, 1814, England agreed to restore to Holland, within the period of three months, all "the colonies, factories and establishments" therein, except only the three "settlements of Demerara, Essequibo, and Berbice." These were to be disposed of by a "Supplementary Convention," to be negotiated "especially with reference to the provisions contained in the VIth and IXth articles of the treaty

<sup>1</sup> Archivo de las Indias (Seville).

of peace" of May, 1814. By that Supplementary Convention (August 13, 1814), Holland, in consideration of certain sums of money, to be advanced by England under the conditions therein specified, ceded to England "in full sovereignty" the three "settlements" named, *but no more*.

Here, then, we have the source, and the only legitimate source, of England's present claim to territory in Guayana. That it is limited to the three "settlements" named, as they stood from 1791 to 1814, is manifest. England is therefore justly entitled, as the legal successor of Holland, to all the territory within the then recognized limits of those three settlements, but not to one foot of ground beyond. Holland never had a fifth "settlement" or colony between the Essequibo and the Orinoco; but even if she had, certainly no part of it was ceded to England by the Supplementary Convention of August 13, 1814. Nor has there ever been any such concession since, either by Holland, Spain, Colombia, or Venezuela. Nor could there have been any such cession by the native Indian occupants, for the ultimate dominion of the soil could not have been conveyed by them, even had they attempted it, which nowhere appears.<sup>1</sup>

In view of these facts, so easy of verification, it seems almost incredible that Lord Salisbury should maintain that Mr. (afterwards Sir) Robert Schomburgk "did not discover or invent any new boundaries" in making out his tentative divisional line of 1840. Even Schomburgk himself did not take this view of the case, as appears from his book published in London in that year. For he therein says he followed, not the historic limits, but those "which nature prescribed by its rivers and mountains." He had been told by an old Indian, whose grandfather had told him, that once upon a time, according to tradition, some Dutchmen had a trading "post," or something of that sort, near the mouth of the Amacuro river. Without further inquiry, he selected this as a starting point and run a zigzag line thence to the site of another reputed ancient Dutch "post" on the lower Cuyuni, following those limits "which nature prescribed by its rivers and mountains." He seems to have been in total igno-

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<sup>1</sup> *Supra*, III, p. 16-17.

rance of the fact, now so clearly disclosed by the resurrection of the old Spanish archives, that one of these traditional Dutch "posts" was nothing more than a smuggling station, and the other a place for kidnapping Indians from the Spanish missions; that both were broken up and destroyed as soon as their existence became known to the Spanish authorities; and that neither of them was ever afterwards re-established. Such was the origin of the "Schomburgk line"! Not much wonder that it should have been so promptly disclaimed by the British Cabinet, which ordered its complete and final obliteration, and then proposed a new line beginning at the mouth of the Moroco, more than a hundred miles distant.<sup>1</sup>

And yet Lord Salisbury makes the surprising statement that "while Mr. Schomburgk was engaged in this survey, the Venezuelan Minister at London had urged her Majesty's Government to enter into a Treaty of Limits"; and that "as soon as Her Majesty's Government were in possession of Mr. Schomburgk's reports, the Venezuelan Minister was informed that they were in a position to commence negotiations!"

The truth is, Dr. Fortique, the Venezuelan Minister at London, acting under written instructions from his Government, made it a condition precedent to any negotiation of boundary that the so-called "Schomburgk line" be not only disclaimed but completely obliterated, although it was then claimed by Lord Aberdeen to represent nothing more than the extreme limit of England's possible claim, and not, as now, an absolute boundary.<sup>2</sup> It was not till after Lord Aberdeen had disclaimed the line, and had given assurances that it would be promptly obliterated, that negotiations were commenced. Then it was, but not before, that the Venezuelan Minister proposed to open negotiations for a boundary treaty; then it was that he reasserted the Essequibo river as the rightful boundary; and then it was that Lord Aberdeen proposed the divisional line beginning near the mouth of the Moroco and extending southward, crossing the Cuyuni below the mouth of the Acarabisi.

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<sup>1</sup> See correspondence in "Official Hist. of the Discussion," &c.

<sup>2</sup> *Ib. Id.*

It is true, as Lord Salisbury says, that in making this proposition Lord Aberdeen imposed two conditions, namely, that Venezuela would agree not to alienate any portion of the remaining territory to a third power, and not to maltreat the Indian occupants. But he omits to state that Lord Aberdeen refused to make these conditions mutual; and that, pending these negotiations, he orally proposed arbitration, to which "no immediate answer" appears to have been given by Venezuela.

The agreement of 1850, to which Lord Salisbury refers, followed in due course, whereby both parties were obligated not to occupy or attempt to occupy any portion of the then unoccupied territory in dispute till after the question of boundary should be finally settled. That the territory then in dispute did *not* extend to the Orinoco, or to anywhere near it, is manifest from the fact that the British Government had more than once, and in more forms than one, distinctly recognized Venezuela's right of domain and jurisdiction, not only at the Orinoco delta, at Point Barima, and at the mouth of the Amacuro, but even as far eastward as the Moroco River.<sup>1</sup> Indeed, in January, 1867, and again in June, 1887, twenty-one years before, and again more than a whole year after England had taken forcible possession of Point Barima and fortified the mouth of the Amacuro, the Governor of Demerara, acting under instructions from London, declared officially that Her Majesty's Government would not guarantee any protection or compensation to British miners or settlers in that vicinity in case the boundary question should be decided in favor of Venezuela.<sup>2</sup>

Each party now accuses the other of having violated the Agreement of 1850. But even if both accusations were true, it would not be material to the real issue involved in the boundary dispute; for it will hardly be seriously contended by either party that mere *de facto* occupancy of a disputed district, after the dispute had arisen, conveys legal title.

But that England did violate the Agreement is conclusively shown by Lord Salisbury's own statements. He admits, for in-

<sup>1</sup> Off. Hist. Dis. Boundary Question.

<sup>2</sup> Certified copies of these papers are now before the Boundary Commission.



stance, that his Government re-established the discarded Schomburgk line, and took forcible possession of all the territory within it. That was clearly a violation of the Agreement of 1850. He attempts to justify it by alleging, first, that the disavowal and obliteration of the Schomburgk line by Lord Aberdeen, in 1842, was a concession "made on the distinct understanding that Great Britain did not thereby in any way abandon her claim to that position"; and, second, that Venezuela had previously violated the Agreement by establishing new settlements, and by granting mining concessions within the disputed territory.

Both these statements are inaccurate. As to the first, Lord Aberdeen's note of January 31, 1842, will not bear the construction here placed upon it. His exact words were these: "Her Majesty's government must not be understood to abandon any portion of the rights of Great Britain over the territory which was formerly held by the Dutch in Guiana." Here we have a wide distinction between the reservation of a capricious frontier line which had just been specifically and unconditionally abandoned, and a general reservation of rights to territory, be it much or little, that "was formerly held by the Dutch in Guiana."

As to the second, Venezuela believed, on just grounds, that the disputed territory contemplated by the Agreement of 1850 was, at the utmost, that comprised between the Moroco and the Essequibo rivers; and it is in evidence also that the British Government understood the Agreement in a like sense.<sup>1</sup> Consequently Venezuela has uniformly insisted, as she still insists, that the mining concessions of which Lord Salisbury complains were never intended to include, and did not in fact include, any portion of the territory then in dispute; while a glance at any good map of the country will show that the new settlement or township of Nueva Providencia, of which Lord Salisbury complains, is wholly beyond even the repudiated Schomburgk line. Furthermore, it is very generally understood that not one of the concessions referred to ever amounted to anything. They all lapsed by limitation before the conditions were complied with.

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<sup>1</sup> Certified copies of papers filed with the Boundary Commission.



Again, Lord Salisbury says: "The claim put forth by Venezuela," to all the territory west of the Essequibo, "would involve the surrender of a province now inhabited by 40,000 British subjects," and which "has been in the uninterrupted possession of Holland and Great Britain successively for two centuries." He makes this statement in the very face of the generally accepted historical fact that Holland never, at any time, had "uninterrupted possession" of a single foot of ground west of the Essequibo, certainly of none west of the Pumarón; that there were never any but temporary Dutch establishments west of the Moroco River; and that there was never even a pretense of any Dutch settlements in the Cuyuni basin above the first falls. Moreover, the public treaties, already referred to, distinctly limit England's claim to the *three* Dutch "settlements" of Demerara, Berbice, and Essequibo, as those settlements stood in 1814. Surely his Lordship would not be understood as contending that mere occupancy, in time of peace, of disputed territory after the dispute had arisen, can invest title by prescription; or that *because* there may be "40,000" or any other number of "British subjects" west of the Essequibo, the country they inhabit is *ipso facto* British territory.

As a matter of fact, however, it is notorious that there are no "40,000 British subjects" settled west of the Essequibo River. There are not the half of that number. It is extremely doubtful whether there are as many as 10,000. In 1843, the total population of the whole of the three colonies of British Guiana was only 98,145, including coolies, squatters, aliens, negroes, and all others. Of this number, the entire Essequibo settlement or colony had but 21,509. According to the latest and most reliable census reports, the present population of the whole of British Guiana hardly amounts to 300,000. Of these over 100,000 are negroes, most of whom are aliens from the West India islands, and comparatively few of them can be said to have any settled habitation. Fully 150,000 more are East Indian and Chinese coolies, brought out from Calcutta and Canton and elsewhere in India and China under five years indenture, and are at best little more than slaves. The entire white population of the whole of

British Guiana is probably less than 3,000, and the voting population less than 2,400.

West of the Essequibo there is not a single British settlement that was not made against the remonstrances and formal protests of the Colombian and Venezuelan authorities; whilst those between the Pumaron and Moroco rivers, as also those in the Cuyuni basin are of very recent origin. Not one of them existed as late as 1850; not one of them has ever had even the passive acquiescence of the Venezuelan Government. Those west of the Moroco, and on the eastern watershed of the Orinoco, are of still later origin. Not one of them existed twenty years ago; while those at Barima Point, on the Brazo Barima, on the Guaima, and at the mouth of the Amacuro are less than a dozen years old; and each and all of them were made over the repeated protests and remonstrances of the Venezuelan Government.<sup>2</sup>

Lord Salisbury's allusion to Venezuela as "the self-constituted inheritor of Spain," is, to say the least, very unfortunate; for surely, at this late day, he would not be understood as contesting the long-established rule—repeatedly applied by the United States, and as repeatedly recognized by Great Britain—that "when a European colony or dependency in America becomes independent, it succeeds, *ipso facto*, to the territorial limits of the colony or dependency as they stood in the hands of the parent country."<sup>3</sup> And it would be quite as absurd to assume that his Lordship now proposes to make Venezuela the first and only exception to that rule, fully three quarters of a century after the independence of the country has been formally recognized by all the powers of the civilized world.

He clearly misapprehends the meaning of the declaration in the Venezuelan Constitution, and of similar declarations in the fundamental laws of the old Colombian Union, namely, that "the territory of the Republic comprises all that which, previously to the political changes of 1810, was denominated the Captaincy General of Venezuela." Such declarations by "a newly consti-

<sup>1</sup> See certified copies of Census Reports, etc., filed with the Commission.

<sup>2</sup> See copies of these protests filed with the Boundary Commission.

<sup>3</sup> *Supra*, II., p. 12.

tuted state" he says, "can have no valid force as against international arrangements previously concluded by the nation from which it has separated itself." Assuredly not. Nobody has ever contended that it can. What is contended for is, that the limits of the territory comprised in the Captaincy-General of Venezuela, as they stood in 1810, are to-day the rightful limits of the territory of the Republic as the legitimate inheritor of Spain. In other words, the western frontier boundary between Spanish and Dutch Guayana in 1810, wherever that was, is unquestionably the present rightful frontier boundary between Venezuela and British Guiana.

Indeed we must assume that Lord Salisbury himself admits this. For, further on in his dispatch, he says "the present difficulty would never have arisen if the Government of Venezuela had been content to claim only those territories which could be proved or even reasonably asserted to have been practically in the possession and under the effective jurisdiction of the Captaincy-General of Venezuela." It is denied that Venezuela has ever set up any claim beyond this. But let us waive that point and proceed to narrow the issue down to the single proposition here intimated. The terms "proved," "reasonably asserted," "practically in possession," and "effective jurisdiction," then become pivotal factors, and must apply with equal force to the case of both contestants; for it is indeed a bad rule that will not work both ways. It is therefore quite as incumbent upon Great Britain to prove "practical possession," or "effective jurisdiction" on the part of Holland, as it is upon Venezuela to prove like conditions with respect to Spain. It is even more so; because while Venezuela claims as inheritor of the original discoverer and occupant, England claims only as inheritor of a second comer. Upon this point it is presumed there can be no room for disagreement.

The whole question, then, as thus limited, turns exclusively upon simple and readily ascertainable historical facts. But as to the verity of those facts, the parties in interest have thus far been unable to agree. Hence it is a question very properly referable to a joint commission or to outside friendly arbitration,

which is all that Venezuela asks or has ever asked. Is Great Britain now ready, as she was in 1844, and again in 1885, to join issue on this single point? If so, a settlement is already in sight: it only remains to arrange details.

True, Lord Salisbury says the agreement of May, 1885, to which I refer, "had reference to *future* disputes only"; and that "Her Majesty's Government have always insisted on a separate discussion of the frontier question, and have considered its settlement to be a necessary preliminary to other arrangements." But this, aside from being at variance with the facts, involves a manifest contradiction in terms. For if "Her Majesty's Government have *always* considered" a settlement of the boundary question "to be a necessary preliminary to other arrangements," how came it about that Her Majesty's Government agreed to a draft of treaty *in advance* of such a preliminary settlement?

The fact is, however, that his Lordship's statement is wholly incorrect. It is supported neither by the draft treaty of 1885, to which he refers, nor by the official notes and protocols which preceded and led up to it. The agreement to arbitrate contemplated not "future disputes only," but such as might arise in the negotiations for the settlement of this identical boundary question. Article XV, as finally agreed to by Earl Granville, states, in so many words, that "if there shall arise *any* difference which cannot be adjusted by the usual means of friendly negotiation, the two contracting parties agree to submit the decision of *all* such differences to the arbitration of a third power, or of the several powers, in amity with both, and that the result of such arbitration shall be binding upon both governments."<sup>1</sup>

Surely, no construction is necessary to show that the terms "any differences" and "all such differences" contemplated any and all differences that might arise in process of "friendly negotiation" for the settlement of the boundary question. Indeed the very differences and irritations growing out of that long pending negotiation were the prime occasion, if not the direct cause, of the proposed treaty; and it hardly needs to be pointed out that "any differences" then thought of as present, would, if continued unset-

<sup>1</sup> See Official History of the Discussion, etc.

tled, become "future" differences and be properly described as such. Moreover if there could be any doubt on this point it would be entirely removed by the notes and protocols of the two plenipotentiaries—General Guzman Blanco and Earl Granville—in which it was steadily insisted on the one hand, and finally consented to on the other, that the provision for general arbitration, in article XV of the draft treaty, should include all differences respecting this identical boundary dispute. Thus, in his final note of May 15, 1885, transmitting the revised draft, Earl Granville says, in so many words, that Her Majesty's Government "further agree that the understanding to refer differences to arbitration shall include *all* differences which may arise between the contracting parties, and not those only which arise on the interpretation of the treaty," as he had previously insisted.<sup>1</sup>

Even Lord Salisbury himself must have understood the agreement in this sense when he repudiated it just seventy-two days later; otherwise his note to General Blanco, dated July 27, 1885, is meaningless. In that note he says: "Her Majesty's Government are unable to concur in the assent given by their predecessors in office to the general arbitration article proposed by Venezuela." Why? "Because," to again quote his exact words, "questions might arise, such as those involving the title of the British Crown to *territory or other sovereign rights*" which "Her Majesty's Government could not pledge themselves beforehand to refer to arbitration."<sup>2</sup>

This language, taken in connection with the occasion which called it forth, can have but one meaning. Lord Salisbury must have understood that article XV of the draft treaty, as it had been agreed to by his predecessor, did provide, in a most unmistakable manner, for the reference to arbitration of "*all* differences" growing out of the long standing and still unsettled boundary dispute; and for that reason he repudiated it. But for that unfortunate (I might say hasty and inconsiderate) act, the probabilities all are that the boundary dispute would have been amicably and honorably settled long ago.

<sup>1</sup> Off. Hist. Discus.

<sup>2</sup> *Ib.*, *Id.*



## PART III.

## FALLACIES OF THE BRITISH "BLUE BOOK."

The British Blue Book of March, 1896, entitled "Documents and Correspondence relating to the Question of Boundary between British Guayana and Venezuela," is perhaps as clever a presentation of the English contention as the facts and circumstances of the case would admit. True, it is full of grave historical errors. It abounds with unsupported assumptions. Its marginal notes and citations of authorities are often vague, irrelevant or impossible of verification. Some of the extracts made from public documents come perilously nigh being garbled. And it is so marred by the omission, or by the partial presentation, of material facts, as to excite general distrust. But, after all, perhaps, its faults and failures are less chargeable to the advocate, than to the inherent weakness of the cause itself.

In so far as these mistakes were foreshadowed in Lord Salisbury's note of November last, and subsequently by a published synopsis in the newspapers, they have received some attention already,<sup>1</sup> and there is no necessity for going over that part of the ground again. There are, however, some additional statements in the Book, and in its Supplement of July, 1896, which may be thought worthy of notice. They may be briefly summarized as follows :

1. That "prior to 1596, the Spaniards had established no settlements" in Guayana ; and, inferentially, that no part of the country was then in their possession ;
2. That in 1648, at the time of the treaty of Münster, "the Dutch settlements" extended westward to the Orinoco and southward beyond the Cuyuni ; and, inferentially, that nearly the whole of Guayana, with the possible exception of the Caroni valley, was a Dutch possession ;

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<sup>1</sup> "Lord Salisbury's Mistakes," *supra*, pp. 40-51.



3. That up to 1723 the Spaniards had but one settlement in Guayana, and that was at Saint Thomé on the Upper Orinoco ; and, inferentially, that the navigable estuaries of that river, including its immense delta, were under Dutch dominion ;

4. That up to 1796 the Spanish settlements were limited to "a few Capuchin Missions and two villages above the old town of Saint Thomé; and, inferentially, that the Dutch held all the balance of the territory east and south of the Orinoco ;

5. That this Dutch occupancy (which is claimed to have extended to the Orinoco delta and Point Barima) "was known to the Spanish Government," which, however, interposed no objection, or at least "failed to dispossess" the Dutch ; and,

6. That "subsequently to 1796, Great Britain *has continuously remained in possession*, and her subjects have occupied further portions of the territory *to which the Dutch had established their title.*"

While these monstrous assumptions are wholly unsustained, even by the very citations and partial "extracts" produced in their support, they are, nevertheless, made in a grave State paper, and shall be treated fairly and courteously.

The following propositions are nowhere denied, even in the Blue Book, viz.:

1. That in 1498, Columbus, sailing under Spanish Commission, was the first discoverer of the Island of Trinidad, the Gulf of Paria, the Orinoco delta, and of the contiguous coast of Guayana ;

2. That in 1499, Alonzo de Ojeda, a Spanish subject under Royal Commission, skirted the entire coast of Guayana, from the Orinoco to the Marowine and beyond, landing at several places and taking formal possession in the name of the Spanish Government ;

3. That in 1500, Vicente Yañez Pinzon, another Spanish subject, likewise sailing under Royal Commission, was the first to explore the Orinoco delta, of which he took formal possession in the name of his sovereign ;

4. That in 1531, Diego de Ordaz, another Spanish subject, was the first to explore the Orinoco river, which he ascended as far as the mouth of the Meta, taking formal possession of both banks and of its numerous affluents in the name of his sovereign ;

5. That it was this same Ordaz who received from the Spanish crown the first European charter of lands and government in the territories thus discovered and explored ; and,

6. That these first discoverers, explorers, and grantees complied with all the requisite formalities of international law, as that law was then recognized and understood, necessary to invest title in the King of Spain.<sup>1</sup>

Before proceeding to enquire when and under what circumstances Spain relinquished any of her possessions in Guayana, perhaps it may be as well to note in passing (especially since the fact is omitted in the Blue Book), that as early as 1528, in order to follow up Ojeda's explorations, the Spanish King agreed with a Dutch mercantile house "to protect a colony to be sent out by them" to the northeastern coast of Guayana ; and that this was the origin of the Alfinger expedition of 1530, which, however, came to naught.<sup>2</sup>

The next year, 1531, an expedition inland, by way of the Orinoco, was fitted out from Spain under Ordaz, who penetrated to the valleys of the Cuyuni and Yuruary. This became the only foundation for the pretended discovery of the fabled El

<sup>1</sup> Justin Winsor, *Nar. & Crit. Hist. America: Span. Explorations & Settlements in America from the 15th to the 17th Centuries*, Vol. II., p. 133 *et seq.*: Irving, *Life of Columbus*, Book X., C. II. & III.: *Letters of Columbus*, *Nar. Colec.*, v. I.: *Hist. del Almirante*, C. 88: Peter Martyr, I lib. VI.: Las Casas, *Hist. Ind.*, lib. I., C., 138: Herrera, lib. III., C. 10: Hackluyt *So. Publications*: also Bancroft, Caulin, etc.

<sup>2</sup> Karl Krüpfel, *Bib. des Literarischen Verens*; Stuttgart, No. XLVII.: Klünzneor, *Arith. der Deutschen an der Entelckung*: Von Kloos's *Die Wesler*, Augsburg.

Dorado, sixty years afterward, of which Sir Walter Raleigh speaks.<sup>1</sup>

In 1534 the Dutch made an attempt to penetrate the interior of what is now western Venezuela and eastern Colombia. The expedition was headed by George of Spires, but was under the immediate sanction and patronage of the King of Spain, who was then also titular Emperor of Holland.<sup>2</sup> Spires started not from Holland, but from Spain with 400 men, landed near where the present city of Coro stands, in western Venezuela, penetrated some 1,500 miles into the interior of what is now the Republic of Colombia, and returned with the few survivors in 1538.<sup>3</sup>

In 1549 Ursua, a Spanish subject, who had superseded Armentariz, another Spanish subject, obtained command of an expedition and founded a town in the interior of Guayana, which, however, had to be abandoned in 1552, owing to the hostility of the native Indians. According to the most reliable chroniclers of the time, Ursua ascended the Rio Negro, passed through the Casiquiare channel to the Orinoco, and thence down the Orinoco to the Atlantic Ocean.<sup>4</sup>

Thus, as early as 1549 the Spaniards had not only completely circumnavigated, and taken formal possession of, the whole of Guayana, but had penetrated the interior and established at least one settlement there.

In 1568 the Spanish Government mapped out the country, and appointed Pedro Malaver de Silva and Diego Fernandez de Serpa as Governors; the first over the part west of the Orinoco, the second over the eastern section from the Delta.<sup>5</sup> Up to this time, none but Spaniards had fitted out expeditions to Guayana; none but Spaniards had penetrated the interior; none but Span-

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<sup>1</sup> Works, Hackluyt Society: Justin Winsor, "Spanish Explorations," &c., vol. II., p. 579.

<sup>2</sup> *Infra*, p. 61, Note.

<sup>3</sup> Winsor, vol. II. See, also, standard histories and geographies of Colombia and Venezuela, by Restrepo, Caulin, and others.

<sup>4</sup> Winsor, vol. II., and authorities there cited; Bancroft, *Cent. America*, II., 61; also the Spanish colonial historians.

<sup>5</sup> Winsor, II., pp. 585-6; Archivo de las Indias (Seville).

iards had attempted to plant colonies there; none but Spaniards claimed territorial dominion there.

The compilers of the Blue Book cite Purchas' Pilgrims to prove that "in 1595 the English explorer, Captain Charles Leigh, found the Dutch established near the mouth of the Orinoco."<sup>1</sup> Turning, however, to the volume and pages cited, we find nothing about either the Orinoco or Dutch establishments! We find only a statement by Captain Leigh (in a letter to his brother, Sir Orlando), that he got his "first sight" of the country "in the Amazon river on the 14th of May, 1602"; that he there found, not a Dutch establishment, but only "a Dutch shippe"; that "sithence here hath arrived another"; that these "shippes buye up all the flaxe they can get, and pay so deere that" he could get none; nevertheless, he says they had "not gotten so little as ten tunnes within these two months." Not one word about Dutch settlements or establishments anywhere in Guayana, and not a word about the Orinoco river!

Again, we have the assertion, on page 4 of the Blue Book, that "the first settlement made by Spain in Guayana was in 1596, when Antonio de la Hoz Berrio founded San Thomé de Guayana on the south bank of the Orinoco at the site marked upon the sketch map A"—the site here indicated being that of "Old Guayana" (*Guayana vieja*) just above the Delta. Further on (p. 20) is the assertion that "prior to 1723, there was not a settlement by the Spaniards in the territory in question except San Thomé de la Guayana, originally situated about the spot indicated on sketch map A, and twice subsequently removed further up the river to the points indicated upon the same map"—the second and third sites here indicated being those near the mouth of the Caroni and at Angostura (now Ciudad Bolivar) respectively.

The fallacies of these statements are so apparent that they scarcely need to be pointed out. It was in 1531, sixty-five years prior to the date here given, that Ordaz found an Indian village near the mouth of the Caroni. This became the site of the first San Thomé de la Guayana, which, after having been a Spanish

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<sup>1</sup> Blue Book, p. 4.

settlement and fortification for about 48 years, was sacked and burned by the freebooter Jansen in 1579.<sup>1</sup> Of course Jansen could not have sacked and burned San Thomé de la Guayana seventeen years before it had an existence! In 1591, five years prior to the date here given, San Thomé de la Guayana was moved down the river to the site of the present *Guayana vieja*, where it was rebuilt by Antonio de la Hoz Berrio, and where it was attacked by the Raleigh-Keymis expedition, 1617.<sup>2</sup> In 1764 it was removed for the third time and located at the Narrows (Angostura), the site of the present city of Bolivar.<sup>3</sup>

As early as 1664, fifty-nine years prior to the date here given, Spanish mission settlements had been established in Guayana by the Dominican and San Augustin orders, as also by Don Francisco de Rojas, Don Miguel de Angelo, Don Joseph de Figueroa. Don Andrés Fernandez, and the Father Jesuits. In 1681, forty-two years prior to the date here given, these missions were assigned to the Catalan Capuchin Fathers, and the assignment was approved, April 1687, by Royal Cedula.<sup>4</sup>

Moreover, it was precisely in 1595, one year before the date here given, that Sir Walter Raleigh made his first voyage to the island of Trinidad, and thence through *Boco de Navios* up the Orinoco to the mouth of the Caroni. He reported that, after first overcoming the Spanish force at Trinidad, he ascended the Orinoco, where he found "the Spaniards had previously traversed the whole country"; that they had been "cruel to the Indians"; that he "made friends of the Indians," and told them he had come to deliver them from their Spanish conquerors and oppressors.<sup>5</sup>

In the year following (1596) Raleigh sent Captain Keymis, a companion of his first voyage, to renew the search for the fabled El Dorado, "with a view of planting a colony." Keymis returned to England in June of the same year and reported that "the Spaniards already occupied the country"; that they were in the Essequibo River; and that they had established "settle-

<sup>1</sup> *Supra*, p. 54, loc. cit.

<sup>2</sup> *Infra*, p. 58.

<sup>3</sup> Archivo de las Indias (Seville), vol. I.

<sup>4</sup> *Ib.*, *Id.* vol. I., p. 221.

<sup>5</sup> Winsor, v. II. and III.

ments at the mouth of the Caroni" and at "other places with men sent out from Spain."<sup>1</sup>

In June, 1617, Raleigh fitted out another expedition of 11 vessels and 431 men, his son, Walter, and Captain Keymis being of the number. The expedition was resisted by the Spaniards at St. Thomé, in which engagement young Walter was killed. Keymis continued the search for the fabled El Dorado, but was met and defeated by the Spaniards when he had proceeded but a few miles into the interior, beyond the reach of his ship's guns. He returned to St. Thomé for reinforcements, but became despondent and committed suicide. The next year (1618) Raleigh was beheaded at the instance of the Spanish King, who had been offended at these meddlesome incursions.<sup>2</sup>

And yet, in order to support the astonishing assertion that in 1596 "the Spaniards did not then hold any part of Guayana," a carefully-selected "extract" from a letter of Don Roque de Montes, the Spanish Colonial Treasurer at Cumaná, is produced in evidence.<sup>3</sup> But even this adroitly selected (I will not say garbled) "extract" proves just the contrary. The writer says that he had "instructed Captain Felipe de Santiago" of the Spanish service to "ascend the River Orinoco and arrest two Englishmen whom Raleigh had left there" as spies and informers, and "to warn the Indian chiefs not to admit or receive any foreigners except Spaniards"; that these instructions were faithfully carried out; that the only surviving Englishman had been arrested; and that the Indians were warned against the intrusion of "any more foreigners." He closes by recommending better facilities for navigating the Orinoco, since it was the great fluvial highway to western and southern Guayana and the other Spanish provinces.

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<sup>1</sup> Raleigh's Works, Hackluyt ed.; Winsor, vols. II. and III.

<sup>2</sup> Winsor, *Nar. and Crit. Hist.*, etc., vols. II. and III. See also Hume's *Hist. Eng.* For this act of violence and piracy, Raleigh might have been tried and condemned by the English common law; or he might have been tried and condemned by martial law for breach of orders. But as he was already under actual attain for high treason, he could not be brought to new trial for any other crime. So, to satisfy the Court of Spain, King James I. signed the warrant for Raleigh's execution upon his former sentence.

<sup>3</sup> Blue Book, App. p. 50.



Manifestly, the Spaniards were then in actual possession of the Lower Orinoco river, and in fact of the whole of western Guayana; for otherwise they could not have arrested the only foreigner found there, or warned the Indian tribes against similar spies and informers in the future.

Furthermore, in 1619, Just twenty-three years later, two Spanish colonial military expeditions were sent out from St. Thomé (*Guayana vieja*) to the Essequibo and Vervice (Berbice) Rivers to punish the Araucas. The last of the two was entrusted to Captain Gerónimo de Grados, and was composed of but thirty soldiers; yet it marched right through the whole region, from the Orinoco to the banks of the Essequibo by way of Baruma and returned, without once encountering any Dutch or other foreign forces, and no mention is made of any Dutch settlements.<sup>1</sup>

It will be remembered also that in 1620, King James of England, learning that the Spaniards then held actual possession of the whole of Guayana, revoked the patent he had granted, in 1617, to Roger North and others for the establishment of a trading company and colony there.<sup>2</sup>

The British contention is that, "early in the seventeenth century various Dutch companies (afterwards merged into the great West India Company) were employed in colonizing Guayana, and had established several settlements there before 1614."<sup>3</sup>

The first of those "various Dutch companies" was established in 1607, and soon became bankrupt. A similar fate overtook its successors. The "great West India Company" was not organized till 1621, when the English were still attempting to reach the Pacific Ocean by sailing up the James river in Virginia, and when the Dutch were yet trying to reach China by way of the north pole.<sup>4</sup> "West India," as then understood, and even as described in the Company's charter, "extended from the French settlements

<sup>1</sup> "Noticias Historiales de los Conquestas de Tierra Firme en las Indias Occidentales," by Fr. Pedro Simón, etc., etc., 1626; See Bogotá ed. of 1882, Chap. XXX., p. 401, *et seq.*

<sup>2</sup> Annals of Guayana, by Rodway and Watt, London, 1888: Winsor, v. II.

<sup>3</sup> Blue Book, p. 4.

<sup>4</sup> Hildreth: Hist. U. S., v. I., loc. cit.

in Newfoundland, along the Atlantic coast to the Magellan straits, and so around to the South Sea, including likewise all Africa between the tropics of Cancer and the Cape of Good Hope." Within these vague and indefinite limits the Company was to have a monopoly of trade.<sup>1</sup> It was an absurd attempt to blockade half the globe with forty galleots at a time when every harbor and position of advantage was commanded by the Spaniards, French, and English; when the whole of South America, from Cape Horn to the Isthmus of Panama, was already occupied and held by the Spaniards and Portuguese; and when the Dutch were scarcely able to defend, inch by inch, the meagre little sand banks and marshes of the Fatherland.<sup>2</sup> Moreover, the charter of the Company did not purport to be a grant of land. Its declared object was to "encourage trade, navigation, and commerce" with countries between which and the States-General treaties already existed.<sup>3</sup>

It was however an open secret that the main expectation of profit to the Company was from plundering Spanish merchant ships.<sup>4</sup> It is a well established historical fact that whilst one or two Dutch ships had touched on the coast of Guayana to trade with the Indians, there was no attempt to plant Dutch settlements there until more than a century after the Spaniards held the country. It was Raleigh's first voyage, in 1595, which started the Dutch, as it had been the Spanish discoveries and explorations that had started Raleigh; and historians are generally agreed that the first attempt by the Dutch at colonization took place about the year 1624.<sup>5</sup>

Moreover, these "various Dutch companies," as also "the great West India Company" itself, which succeed them, were then legally under Spanish allegiance, as were the States-General them-

<sup>1</sup> Charter of June 3, 1621.

<sup>2</sup> Motley, *Hist. United Netherlands*, IV. pp. 298-388.

<sup>3</sup> See Preamble to Charter of June 3, 1621.

<sup>4</sup> Bancroft: *Hist. U. S.*, v. II. p. 41. The States-General were then in the midst of their long war with Spain.

<sup>5</sup> *Ilist. Brit. Guayana* by James Rodway, F. L. S. (an English authority), v. I.

selves.<sup>1</sup> Therefore any settlements they may have established in Guayana were under the recognized dominion and jurisdiction of Spain.

By the treaty of recognition and cession of 1648, usually referred to as the treaty of Münster, those settlements were ceded by Spain to Holland; but the cession was expressly limited to *bona fide* Dutch settlements then in existence. It did not embrace any unoccupied territory; nor did it include any abandoned Dutch settlements or establishments. At that time the Dutch had but four "establishments" or "settlements," as they were alternately termed, in the whole of Guayana. These were on the Atlantic coast between the Corentyn and Essequibo rivers. The first, known as "Surinam," extended from the Corentyn to the Surinam river; the second, known as "Berbice," extended from the Surinam to the Berbice river; the third, known as "Demerary," extended from the Berbice to the Demerara river; and the fourth, known as "Essequibo," extended, from the Demerara to the western estuary of the Essequibo river. The cession embraced no others.<sup>2</sup> Indeed, there were no others in existence. There had been frequent raids by Dutch and English freebooters into the Orinoco valley, as there had been at Caracas, Puerto Cabello, and in other parts of what is now the Republic of Venezuela; but there were no permanent Dutch "establishments" or "settlements" west of the Essequibo river, or, at the very farthest, west of Cape Nassau and the Pumaron.<sup>3</sup>

In 1671 the Island of Trinidad and the Orinoco delta being

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<sup>1</sup> Charles V. of Spain, as heir of the house of Burgundy, inherited and united the Dutch Provinces under his scepter early in the sixteenth century. His son, Philip II., who succeeded to the throne in 1555, by his harsh treatment of the Reformers, excited the Provinces to rebellion. An almost continuous war of nearly eighty years followed, terminating in the general peace of Westphalia, and the acknowledgment by Spain of the independence of the Dutch Provinces, in 1648. (Motley, "Rise of the Dutch Republic.")

<sup>2</sup> Treaty of Münster, Oct. 24, 1648, Art. V.

<sup>3</sup> Reynal, Hist. Indias; Dalton, Hist. Brit. Guiana; Depon's Voy., III.; Noire, Geog. Works; Meyer's Geog. II.; Bolingbroke, Voyages, &c.; Brett, Indian Tribes of Guiana; Caulin. Hist. Nueva Andalucia. Certified copies of MSS. Colonial Archives, Seville, during 16th and 17th centuries, now before the Commission.

threatened by the Dutch and Carib raiders, the Home Government was urged to provide for an inspection of the most important ports, and to fortify the island itself against possible attack. It was also recommended that an additional fort be established at the narrowest part of the Orinoco, since the Dutch were "said to be" already "near the entrance of said river." But why this should be gravely cited<sup>1</sup> to show that the Spaniards had already "abandoned," or were about to "abandon," or were even contemplating the abandonment of the Orinoco delta, it is difficult to conjecture.

The Carib Indians had been often incited to insurrection by the Dutch and English during the eighty years' war which ended in the general peace of Westphalia. The Dutch, and afterwards the English, made annual presents to these savage tribes, sought alliances with them against Spain, and finally pretended to have established some sort of Protectorate over them. But, in reality, this so-called "Protectorate" never amounted to anything, as we shall see further on. It certainly conveyed no eminent domain and jurisdiction. The Dutch never claimed that it did.<sup>2</sup>

The citation of the treaty of Utrecht, of 1713, was probably an inadvertence on the part of the compilers of the Blue Book; for that treaty, so far from strengthening the English case, is fatal to it. England therein solemnly obligated herself (Article VIII.) to "aid the Spaniards to recover their ancient possessions," in Guayana as in other portions of the West Indies and the Americas, "as they stood in the time of Charles II.," that is, as they stood from 1661 to 1700; that is, as they stood only 23 years before this alleged temporary "abandonment" by the Spanish forces of the coast between the Essequibo and Orinoco.

The correspondence between the Governments of Spain and Portugal, of 1753-4, is cited in support of the English case. The correspondence, however, shows nothing beyond a desire on the part of Spain to arrange with Portugal (who then owned adjacent territory) to rid the Spanish and Portuguese Guayanas

<sup>1</sup> In the Blue Book, pp. 8 and 58.

<sup>2</sup> *Supra*, p. 78-9.

of Dutch interference with the native Indian tribes, whom they were constantly inciting to insurrection. Spain had become so exasperated at these meddlesome interventions, and at the frequent raids into her territory by Dutch adventurers, slave-catchers, kidnappers, and smugglers, that she had well-nigh resolved to try to find some means of ridding the whole Atlantic coast of them.<sup>1</sup>

In 1755, the Dutch advanced from the Essequibo river, a short distance up the Cuyuni, where they attempted to establish an outpost. They were driven back by the Spaniards who were then in possession of the whole Cuyuni valley above the first falls. Three years later (in 1758) the Spaniards destroyed a hut that some Dutch kidnappers had erected on or near the Island of Caramucuro, in the lower Cuyuni river, a few leagues above its junction with the Essequibo.<sup>2</sup>

In 1753, the Orinoco river, and thence up the Meta, was the usual route of travel between the Spanish settlements on the coast and those in the remote interior of what is now the Republic of Colombia<sup>3</sup>; and the same was true ten years later (December, 1763) when the Governor-General, Don Joseph Diguja, made his celebrated Report<sup>4</sup> to the Home Government. This could not have been the case unless the Spaniards then controlled the mouths of that great river

The refusal by Spain to permit the Dutch to fish at the mouth of the Orinoco, in 1758, has been often cited in support of the Venezuelan claim, but never before in support of the British contention. Why it should have been cited by the compilers of the Blue Book to prove that the Dutch were then in possession of the mouth of that river is not quite clear!

The same is true of the official correspondence between the Dutch Ambassador and the Spanish Government in 1778, for it certainly establishes the fact of Spanish dominion on the lower Orinoco. The Dutch complaint, in effect, was that the Span-

<sup>1</sup> Archivo General de las Indias. Seville, 131-2-17, in Certified Copies before the Commission.

<sup>2</sup> Archivo de las Indias (Seville) Vol. II., Cert. Copies before the Comm.

<sup>3</sup> Archivo de las Indias (Seville), Vol. I.

<sup>4</sup> Vol. I., Chap. II., Arch. de las Indias.



iards had broken up the slave "post" in the Lower Cuyuni, and had captured and confiscated some Dutch fishing crafts at Barima. The Spaniards justified these acts of jurisdiction by alleging ownership of the territory. The Dutch got no redress and abandoned their claim.<sup>1</sup>

As late as 1779, the Dutch settlement of Essequibo and the other colonies of the States General were confined to the banks of the rivers near the seacoast. None of them extended very far into the interior. Back of these coast settlements—west of the Essequibo and eastward and southward up to the French and Portuguese possessions—was little more than a wilderness occupied by fugitive negro slaves and Indian tribes. As this territory had never been alienated by Spain, nor occupied by any foreign power, she still claimed it as part of her domain, and took measures for its settlement.<sup>2</sup>

In 1788 the confidential Agent of the Spanish Government in Guayana recommended that no more timber be cut on the Lower Orinoco; and, strangely enough, this fact is cited<sup>3</sup> to show that the Dutch were then "in possession" of that region! It may well be asked, Why such a recommendation if the Spaniards were not then in actual possession? True, the recommendation was made for prudential reasons. The dense forests were thought to be a "safeguard and barrier against the Dutch and their Carib allies," who, it was suggested, might otherwise "see our nakedness and attack us." Apprehending raids by these people, the Agent thought it prudent to leave the forests standing. But there is certainly no evidence of a purpose to "abandon" the lower Orinoco. On the contrary, even the very meagre and partial extract produced<sup>4</sup> shows that the Spaniards were then actively preparing to defend the country against possible attack; and when the letter is read as a whole, it proves quite the reverse of the British contention.<sup>5</sup>

<sup>1</sup> Archivo General de las Indias (Seville).

<sup>2</sup> See Royal Rescript, 1768; also Inst., Mar. 9, 1779; Archiv. de las Indias (Seville). Certified Copies now before the Commission.

<sup>3</sup> Blue Book, pp. 17, 18.

<sup>4</sup> *Ib.*, *Id.*, pp. 17, 18.

<sup>5</sup> See certified copy of Original MS., now before the Commission; Arch. de las Indias.



So, too, of the report of Antonio Lopez de la Puente, in the same year, respecting the defenses of the Cuyuni and Yuruan valleys.<sup>1</sup> He recommended that the Caribs be prevented from visiting the Dutch settlement on the Essequibo, lest they should tell the Dutch of the condition of the country, who might attack the Spanish settlements and missions on those rivers. Here is certainly no evidence of "abandonment," either actual or contemplated.

When studied as a whole, and in connection with the contemporaneous documents, that report shows that the Spaniards then controlled, absolutely, the entire Cuyuni basin. The Dutch slave-traders (or rather kidnappers) had previously ascended the lower rapids of the Cuyuni in canoes, in order to kidnap Spanish Indians for the slave market in the colony of Essequibo. "At the junction of the Mazaruni and Cuyuni rivers," some twelve or fourteen miles from the Essequibo, "the Dutch," according to Lopez, still maintained "a detachment at a fort called *Castillo Viejo*"—a Spanish name, and in point of fact the fort itself was on the site of an old Spanish fortification. From this point "the Dutch from the Essequibo colony had thrown out a guard some twenty or twenty-five leagues for the purpose of facilitating their contraband trade"; that is for kidnapping Indians from the Spanish missions. It is quite manifest that this advance "guard" or raiding station was none other than the one which had been broken up and destroyed by the Spaniards in 1758, as soon as it had been discovered.<sup>2</sup>

Again, it is asserted<sup>3</sup> that "the entire absence of any control by the Spaniards over the territory in question is further shown by a Report of Don Miguel Marmion, the Spanish Governor" of Guayana, in 1788. But even the seven lines "extract" (in bad translation) adduced<sup>4</sup> fails utterly to support this assertion; while the certified copy and correct translation of the original

<sup>1</sup> Cited in the Blue Book, p. 18.

<sup>2</sup> See Archivo de las Indias, vols. II. and III.

<sup>3</sup> Blue Book, p. 17.

<sup>4</sup> *Ib., Id.*

Report as a whole,<sup>1</sup> dated August 16, 1788, tells quite a different story.

It is a matter of familiar history that, for a long series of years, the Spanish mission settlements, and the more docile Indian tribes in the Spanish territory, suffered from the raids of the warlike and ferocious Caribs. These raids were almost invariably instigated by Dutchmen, who bought the Indians captured by the Caribs. It is even in evidence that in some cases the Dutchmen were in the habit of staining their own bodies and of personally attending their Carib allies in savage costume. Complaints of these outrages were constantly made by the missionary Fathers to the Governor of Guayana, and by these to the Government at Madrid. And yet these raids constitute the only ground of claim to occupancy by the Dutch; and upon that claim to occupancy alone, the present claim of Great Britain rests! As well might it be alleged that the contemporaneous Indian raids and massacres in Massachusetts and New York, and those of a still later date in Vermont, tend to show abandonment by the English, and occupation by the French, who were the real instigators of those raids.

Finally, if in 1790, as intimated in the Blue Book, the Dutch and the Caribs were again making raids upon the Spanish settlements and missions in the interior, it was but natural that the Colonial authorities should hesitate to establish a "new settlement" eastward of Tumeremo, unless the Home Government would first agree to establish and maintain an additional military post beyond "to prevent robberies by the Carib Indians and the Dutch," who had been systematically raiding the missions and settlements for *Poytos* or Indian slaves.<sup>2</sup>

In the Blue Book Supplement, of July, 1896, it is stated that "the presence of the Dutch on the coast as far as the mouth of the Orinoco in the early part of the 17th century, and their in-

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<sup>1</sup> No. XVIII., Archivo General de Indias: Seville: C., 131, S. 2, B. 17; now before the Commission.

<sup>2</sup> Archivo Confidencial, Caracas, 1790-6; Certified Copies now before the Commission.

tention of establishing further settlements, was well known to the Spaniards."<sup>1</sup>

There is nothing in support of this assertion. Even the two very misleading "extracts" produced from the Spanish archives<sup>2</sup> fail to support it. Don Bernardo de Vargas, Governor of the island of Margarita, had reported the presence of some Englishmen on the coast of the mainland; and he had asked for leave of absence long enough to head an expedition and "drive away the intruders." Don Juan Tostado, Governor of the Island of Trinidad, reported that he had hanged some "Flemish [Dutch] pirates" who had been captured by the Spaniards near the Orinoco mouth; and that he had "persecuted and given such ill-welcome" to the Flemings and other foreigners who had attempted to reconnoitre that quarter, that "they had never returned." We read also that complaint had been made of "the Flemings and Caribs" who had "come to steal [*i. e.*, kidnap] friendly Indians" and carry them away as slaves to the Dutch settlements "near the Corintine" [river], where there were "more than 50 married Dutch who commit insolent robberies, which must be put a stop to," etc. We read further on how Antonio de Mujica, Lieutenant of Guayana [at St. Thomé de Guayana], proceeded to "the river called Corentine," 200 leagues from that city (St. Thomé), set fire to the post, so that "not one of the Flemings escaped, but all were burned"; and how he recommended that "it would be well to free our coasts of them entirely," from the river Marañon [Amazon] to the Orinoco, because they were "trading with the Indian tribes, which is a serious matter," etc. In short, we find nothing whatever about "Dutch settlements" at or near the Orinoco delta, or on the Brazo Barima; only the old, old story of Dutch raids into Spanish territory in pursuit of the horrid traffic in Spanish-Indian slaves.

It is further stated<sup>3</sup> that "as early as 1683 Barima was made a sub-station under the [Dutch] Postholder at Pomaroon, to whose jurisdiction it appears to have already belonged."

<sup>1</sup> Blue Book Supplement, p. 4.

<sup>2</sup> *Ib.*, *II.* App., pp. 203-204.

<sup>3</sup> Supp. Blue B., p. 11.

The only authority produced, and therefore presumably the only authority that can be produced, in support of this statement, is an "extract" from a letter dated "Commandeur, Essequibo, December 25th, 1683," addressed to the West India Company, in which the writer says he had "caused one of the Company's servant's to reside at Barima" for the "purposes of trade"; that "the place lies near Pomaroon," and has "recently been navigated two or three times by Gabriel Bishop," who "had traded there with great success," and "was well treated" by the natives and Spanish authorities, "to the great prejudice of the Honorable Company." The "place" appears to have been on the coast near the entrance of Brazo Barima, eastward of *Boco de Navios*, the principal estuary of the Orinoco. The writer expressed the "hope" that "the Honorable Company" would "approve" his action in the premises; but, although he insisted that the Company had "as good a right to trade and traffic there in an open river" as had "private persons," no such approval appears of record. Nor is there the slightest hint that the Spaniards were not then, as they had been for nearly two centuries, in the undisputed possession of Brazo Barima, and, in fact, of the whole coast country between the Orinoco and the Pumarón. The claim of Dutch dominion and jurisdiction on such slender evidence as this is simply absurd. As well might it be said that the Dutch had territorial dominion and jurisdiction at the Colombian ports of Rio Hache, Santa Martha, and Carthagena, because the Dutch West India Company once had trading stations or "posts" at those places.

This claim by Great Britain to the Barima region involves the control of the Orinoco river. It involves, besides, the large and fertile area of territory between the Atlantic coast and the Imataca mountains, and which stretches some forty-five leagues from the Orinoco to the Essequibo. It is nowhere denied that this region was first discovered, explored and taken into formal possession by the Spaniards. The British contention is that this entire region having been abandoned by the original discoverers, has been "successively and continuously occupied by the Dutch and English for a period of two hundred years"; and upon this

unsupported assertion, and upon it alone, Great Britain now predicates her monstrous claim to that immense territory.<sup>1</sup>

Now the facts in the case, as will be fully set forth and proved in a separate Brief,<sup>2</sup> are as follows:

That Spain owned and occupied the entire basin of the Orinoco, is not denied. The only dispute relates to the mud islands of the Delta and to the region inhabited by savage Indians. But by a well established principle of public law, appealed to by Great Britain herself on various occasions, these likewise, of necessity, belong to the power owning and controlling the firm banks of the river; and that title can be displaced only by "actual, extensive, public, notorious occupation, permanent in character, long-continued, and never given up."<sup>3</sup> But Spain's (now Venezuela's) title to those islands and estuaries, and to the adjacent region, was never given up or displaced. No part of the Delta or of the adjacent region was ever permanently occupied by either the Dutch or English. Neither of them ever had a permanent settlement there prior to 1886, when the British took violent possession of Point Barima and the Amacuro mouth. There is not even a pretense of any such occupation or settlement by either the Dutch or English.<sup>4</sup>

It is true that, about the middle of the 17th century, the Dutch did make an attempt, in violation of treaty, to establish a settlement near the mouth of the Pumaron river, some twenty miles west of the Essequibo. The attempt, however, failed. The embryo Dutch settlement was broken up and destroyed by the Spaniards eight years later.<sup>5</sup> Later on, the Dutch West India Company made a second attempt to establish a settlement there; but this, too, was broken up and destroyed by the Spaniards three years later, when the Company ordered it to be abandoned.<sup>6</sup>

About the middle of the 18th century the most westerly Dutch "post" on the frontier was at the mouth of the Moroco river,

<sup>1</sup> See Lord Salisbury's note of November 26, 1895; Off. Hist. Discus.

<sup>2</sup> By Mr. Storow, on "The Settled Districts."

<sup>3</sup> See authorities cited in the Brief referred to.

<sup>4</sup> *Ib.*, *Id.*

<sup>5</sup> *Ib.*, *Id.*

<sup>6</sup> *Ib.*, *Id.*



some forty leagues east of the Orinoco mouth. It was professedly established only for the purpose of catching runaway slaves, and as such was "tolerated" by the Spaniards who still claimed dominion there. Then came the extradition Treaty of 1791, which rendered this outpost unnecessary, and fixed the boundary at the Essequibo. Moreover, this Dutch "post" had never been occupied consecutively, but only from time to time as exigencies demanded. It was finally abandoned entirely, and there was never a Dutch settlement beyond that point.

It is likewise true that in 1683 the Director-General of the West India Company recommended the establishment of a trading-post on Brazo Barima; and that, pending the Company's reply, he placed an agent there to trade with the Indians. The Company, however, refused to act upon this recommendation. The temporary trading-post was accordingly withdrawn; and never afterwards did the Dutch have a post or anything of the kind farther west than the Moroco river.<sup>1</sup> The Dutch smuggling and kidnapping station near Brazo Barima, attempted between the years 1758 and 1770, constitutes no exception; because as soon as discovered it was broken up and destroyed by the Spanish colonial authorities.<sup>2</sup>

The Spaniards, then, never relinquished control of this region. They dominated it under assertion of right, and exercised sovereignty and jurisdiction there up to the time of the revolt of 1810, when Venezuela succeeded to the title. The Dutch authorities were well aware of this; and although the energetic and aggressive van's Gravesand, Director-General, repeatedly urged that it was detrimental to the Essequibo colony, no steps were ever taken to prevent it other than the vague and curious remonstrance of 1769. That remonstrance was practically disregarded by the Spanish Government, and the complaint was abandoned.<sup>3</sup>

The Dutch traffic in *Poytos* or Indian slaves began early in the 18th century. The Dutch bought these slaves from the Caribs,

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<sup>1</sup> See authorities cited in Mr. Storrow's Brief on Settled Districts. See also Venezuela's masterly Reply to the Blue Book, now before the Commission.

<sup>2</sup> Span. Archives (Seville), vols. II. and III., now before the Commission.

<sup>3</sup> *Ib.*, *Id.*



who kidnapped their victims from the more docile tribes near the Spanish missions. As the demand for slaves increased and the traffic became more general and active, a few Dutch slave-traders would take up their temporary quarters at some outpost among the Caribs in order to direct the horrid traffic and receive pay for the kidnapped Indians. These slave-trading posts were invariably on frontier territory reckoned as Spanish, remote from the Dutch settlements. It was in no sense an occupation or settlement of land as a sovereign. It was not even an act of temporary dominion.

Such was confessedly the origin of the so-called Dutch post of Arinda, on the Upper Essequibo. "It was intended," (wrote van's Gravesand, the Director-General in 1763,) "for the trade in red slaves and dyewoods," and to "prevent the slaves making off in that direction."<sup>1</sup>

The same is true of the alleged Dutch "posts" in the Cuyuni basin, above the first cataracts near the junction of the Mazaruni. It is admitted by the advocates of the British claim that prior to the year 1759 the Dutch had made no claim whatever to the Cuyuni above the first falls. The claim was then asserted, for the first time, in the complaint made by the Dutch Director-General on account of the destruction, by the Spaniards, in 1758, of the so-called Dutch post near Caramacura. The Spaniards, as we have seen, justified their act by asserting jurisdiction there; the Dutch got no redress, and abandoned their extravagant claim.<sup>2</sup>

The Supplemental Blue Book alleges (p. 18), that "it is clearly shown by a Report of the Director-General of the 12th August, 1761, that the right (?) bank of the [Brazo] Barima had long been considered the territory of the Dutch West India Company, and that there has been at one time a Dutch post in Barima."

Turning to the documents cited in support of this assumption we find only a meagre "extract" from one of van's Gravesand's letters, dated "Rio Essequibo, August 12th, 1761," in which he

<sup>1</sup> Supp. Blue B., Ap. 126.

<sup>2</sup> See Certified copies of Span. Archives, vol., II., now before the Commission in the original and also in translation. This point will be more fully established in a separate Brief.

reports that "the sworn depositions," asked for by the Company, "concerning the canoes captured by the Spaniards" at Barima could not be obtained, "especially those relating to the canoes which were out salting, and which were consequently seized" by the Spaniards. "On those canoes were no whites," he says; "there was only one negro, and the rest were free Indians," that is, Caribs; and that "with regard to the others, the whites that were captured in them are prisoners in Orinoco, and are in the [Spanish] castle there." "One of the canoes," he continues, "having been captured *this side* of Barima, I am of opinion that it was captured upon the Honorable Company's territory. He admits quite frankly, that in support of this "opinion" he could produce no evidence whatever beyond a vague and shadowy "Indian tradition" that the Company "once had a post in Barima"!<sup>1</sup>

It appears then that, up to 1648, Spain never relinquished her title to any portion of the country; that neither before nor during the long war which ended in the general peace of Westphalia, did the Dutch have a single "settlement" or permanent "establishment" west of the Essequibo, or at the farthest west of the Pumarón;<sup>2</sup> that they had none in the interior west or south of the upper Essequibo, or, at farthest, above the lower falls of the Cuyuni near its junction with the Mazaruni; that the cession of 1648 embraced actual and *bona fide* settlements or "establishments" only; that there were never any subsequent cessions by Spain to Holland; and that every attempt on the part of the Dutch to extend their occupancy in violation of that treaty, was successfully resisted by the Spaniards.

## II.

England acquired title to what is now known as British Guiana in 1814. Her previous military occupations of the country (in 1781, 1796, and again in 1803) conveyed no title, as has been many times shown.<sup>3</sup> Whatever title she may have claimed

<sup>1</sup> Supp. Blue B., Ap. p. 117.

<sup>2</sup> *Supra*.

<sup>3</sup> *Supra*.

or acquired by those military occupations, was swept away by the treaties of peace which followed.<sup>1</sup> By the Supplemental treaty of 1814,<sup>2</sup> Holland ceded to England, "in full Sovereignty" and for a monetary consideration, the three "Settlements of Berbice, Demerara, and Essequibo," as the limits of those settlements had been recognized by the Münster treaty of 1648, as they had been interpreted by the treaty of Aranjuez of 1791,<sup>3</sup> and as they stood at the time of the cession of 1814.<sup>4</sup> There have been no additional cessions to England since, either by Holland, Spain, or Venezuela; and it has been many times shown that the native aboriginal tribes had no authority to make any such cessions.<sup>5</sup>

It follows, then, that the alleged "marking out of boundaries" by the British military authorities in 1796<sup>6</sup> was purely an *ex parte* arrangement, and amounted to nothing. Plainly speaking, it was an unjustifiable aggression upon Spanish territory by a military and naval power which Spain was not then in a position to successfully resist by force. There is not the slightest evidence that, even if cognizant of this aggression, she ever assented to it for a moment.

Nor does it anywhere appear, even from the documents in the Blue Book Appendix, that the Dutch were, at any time from 1648 to 1796, in the "uninterrupted possession" of a foot of territory

<sup>1</sup> Treaty of Amiens, Mar. 25, 1802; Peace of May, 1814; Treaty of Aug. 13, 1814.

<sup>2</sup> Art. I.

<sup>3</sup> Art. I.; See *Supra*, Part I.

<sup>4</sup> The actual Dutch settlements or "establishments" were limited to the tide-water region between the Corentyn and Essequibo rivers. Even those on the navigable rivers did not extend farther up than sea-tide. There was not one on either the Cuyuni or Mazaruni rivers above tide-water, some ten or twelve miles from their junction with the Essequibo; nor on the Essequibo itself a dozen miles above that junction. The tide-water region extends up the Cuyuni to the first falls, a short distance from the junction. From the foot of these first falls upward, for a distance of twenty-five or thirty miles, is a continuous cataract with a fall of more than two hundred feet; while on the Essequibo itself, some eighteen or twenty miles above the junction, are the great Aretaka rapids, full twenty miles in length. These cataracts constituted a natural barrier to the interior, which, prior to 1648, the Dutch never even attempted to penetrate. (See Brief on Settled Districts.)

<sup>5</sup> "British Aggressions, etc., or The Monroe Doctrine on Trial," *Supra*. Whart. Dig., vol. I., sec. 7.

<sup>6</sup> Blue Book, p. 19.

west of the Pumaron River. Indeed, there are very grave doubts whether they ever, at any time, held "uninterrupted possession" of any territory between the Pumaron and the Essequibo Rivers. The evidence on this latter point is somewhat conflicting; but the weight of testimony is that the Essequibo was recognized as the true divisional line between the Dutch and Spanish possessions, and that any Dutch incroachments west and south of that river were promptly (and generally successfully) resisted by the Spanish authorities. The very documents and "extracts" cited or produced in the Blue Book fail to show to the contrary. They show merely that while the Dutch and Caribs had made frequent raids upon the Spanish settlements and missions west of the Essequibo, and that even the Orinoco delta was sometimes infested by predatory bands of alien smugglers, slave-traders, and pirates, who incited the Indians to insurrection and pillage, the right of, as well as actual, domain and jurisdiction always remained with Spain.<sup>1</sup>

The official Report by Don Felipe de Requena, of July 29, 1802, is cited<sup>2</sup> to prove that the Dutch held possessions on the Cuyuni and Caroni rivers. But when read as a whole, in the original text, the document fails to show this. Even the partial and carefully selected "extracts" (in defective translation), as produced,<sup>3</sup> fail to establish the British contention on this point. It is merely stated that the Dutch and French had, many decades before, founded settlements on the Surinam and Cayane rivers; that the Dutch had subsequently advanced some distance up the Essequibo River; and that (if not prevented) they "might," in the course of time, advance still further, by way of the Cuyuni and Caroni rivers, to the Orinoco itself, and "take possession of the lower part of" the Orinoco—thus showing, by necessary implication, that the Dutch had no possessions, "settlements," or even temporary stations, either in the Cuyuni or Caroni valleys, or at or near the mouth of the Orinoco, as late as 1802.

Moreover, the Report of Major McCreagh of the British

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<sup>1</sup> See "Archivo de las Indias," vols. I., II., and III., now before the Commission.

<sup>2</sup> Blue Book, pp. 21 and 139.

<sup>3</sup> Blue Book, App. II., p. 139.

army, made at the time of the English military occupation in 1802, although cited in the Blue Book<sup>1</sup> for a different purpose, shows conclusively that the estuaries of the Orinoco, as also the entire river itself and its confluent, were then under the effective jurisdiction of Spain. Thus, Major McCreagh reported that he found a Spanish military post near the *Boca de Navios*; that he found Spanish pilots there also; that some distance further up he found another Spanish military post, together with a Spanish settlement of "eight houses and about six Indian families," the sergeant in command being a white Spaniard; that a little further up he found still another military force, in which were "about forty-six Indians, supposed to be soldiers, with three (white) Spaniards, besides the lieutenant commanding"; that yet a little further up he found another Spanish military force, composed (as usual) of Indians, whites, and creoles; but all were Spanish subjects, and in the Spanish military and civic colonial service. "It was," he significantly adds, "the rule to stop all vessels here" (at a place called Barrancas) "except Spaniards, and even those except such as are specially privileged. Adhering, however," he continues, "to the line of conduct which I had been ordered to pursue, I was, after some delay, permitted to proceed." Even this *ex parte* statement, independently of the overwhelming testimony produced by Venezuela, ought to be sufficient to show the monstrous absurdity of the British claim.

It is contended<sup>2</sup> that the native Indian tribes in what is now the disputed territory, "had been for a long time under the protection of the Dutch," and that this Protectorate "was continued by the Representatives of Great Britain." The "contemporary reports of the Governors of British Guiana in the early part of the 19th century" are cited to prove this. They however prove only that the Caribs and other hostile tribes had, at different times, been in "alliances" with the Dutch, who had been in the habit of making them "annual presents." There is absolutely nothing to show that any Dutch "Protectorates" of the Indians ever really existed.

<sup>1</sup> App. II., p. 154.

<sup>2</sup> Blue Book, p. 22.



But even if they had existed (which nowhere appears), how were they transferred to England by the cession of 1814? Nothing is therein said either of "Protectorates" or of the office of "Protector of Indians." The cession was specifically limited to the three "settlements of Berbice, Demerara, and Essequibo." Surinam was beyond the limits of the three "settlements" named; therefore Surinam remained a Dutch possession. Indian Protectorates (if there were any) were beyond the limits of the three "settlements" specified; therefore, Indian Protectorates (if there were any) remained to the Dutch.

The destruction of a Spanish Mission in the interior of Guayana, by the Venezuelan Revolutionary forces in 1816, and the Executive decree of General Bolivar, of 1817, are both cited<sup>1</sup> in support of the English contention.

The first named proves nothing ; the second proves too much.

As to the first, the Venezuelan patriots were then in the midst of their long struggle for independence. They were at war with the mother country, and war meant the destruction of the enemy's strongholds and strategic points wherever and whenever that was possible.

As to the second, the Executive Decree of General Bolivar named Colonel (afterwards General) Sucre to be "Governor of the old Fort of Guayana," *and likewise* to be "Military Governor of the Orinoco to the old mouth"; the necessary inference being that the whole region of the Orinoco, from the Delta upwards, was then under the effective jurisdiction of the Venezuelan Revolutionary government as the successor of Spain. Moreover, the statement (on page 23 of the Blue Book), that "in 1817, General Bolivar, President of Colombia (with which Venezuela was then incorporated), whose headquarters were at Angostura, issued a decree," etc, is incorrect. In 1817, General Bolivar was not "President of Colombia," nor was Venezuela then "incorporated" in Colombia; because Colombia did not then exist. The preliminary union between Venezuela and New Granada, which afterwards became known as the Republic of

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<sup>1</sup> Blue Book, p. 23.



Colombia, did not take place till December 17, 1819, and was not finally ratified till August 30, 1821.<sup>1</sup>

It is stated in the Blue Book (p. 24) that Venezuela "declared her individual independence" in 1830! Venezuela formally "declared her individual independence" July 5, 1811; and she had maintained that "individual independence" up to 1819, when she became a constituent member of the old Colombian Confederation. In 1830, she withdrew from that compact of union and resumed her separate nationality.<sup>2</sup> Even a superficial knowledge of Spanish colonial history, or the slightest acquaintance with the terms of the Compact of 1819, leaves little excuse for such ludicrous blunders as this.

Recurring to the subject of Indian "Protectorates," documents are cited in the Blue Book<sup>3</sup> to sustain the assumption (made on page 24) that England, as the successor in the title of Holland, exercised jurisdiction "for a considerable distance up the rivers Essequibo, Mazaruni, and Cuyuni" as late as 1831. The reply might be made that, even if true, such an act of jurisdiction was manifestly illegal, in that it was contrary to the very terms of the various treaties under which England holds title. But the assumption is itself untrue. It is not sustained, even by the carefully selected "extracts" produced in its support. Briefly, the case is this:

A murder had been committed by an Indian beyond the immediate frontiers of the Essequibo "settlement." He was arrested and brought to trial before the British colonial authorities. The venue was beyond the limits of the colony, and in a region inhabited by Indians. The murdered person was likewise a resident Indian. But it was held that the old Dutch "Protectorate of Indians" had extended over that particular region, and that this "Protectorate" had descended to the English. The accused was accordingly tried and convicted; but he was

<sup>1</sup> Restrepo, *Hist. Colombia*; Arosamena, *Constituciones Politicas de America Meridional*, vol. II.; See also Caracas Brief or "Reply to the Blue Book."

<sup>2</sup> Arosamena, *Const. Politicas de Amer. Meridional*; Restrepo, *Hist. Colombia*; See also Paëz, Bello, Rojas, Seijas, and other standard authors.

<sup>3</sup> App. II., pp. 68-77.

soon after released on appeal; because the evidence at the trial had disclosed that the so-called "Protectorate" was a myth. A former official of the Dutch colony (van Ryck, by name), testified that he had "lived forty years" in the colony, and had held the office of "Protector of the Indians"; that in that capacity he had always acted "only as mediator," never as a magistrate; that he had "no authority to compel attendance"; that he, in fact, "had nothing to do unless they (the Indians) chose to call on" him as "mediator"; that he "had no authority over them"; that he "never had any authority to interfere" with them, and certainly no jurisdiction over them; and that he was merely "authorized to give them presents," and to cultivate them "as *friends and allies*."<sup>1</sup>

Again, it is gravely stated<sup>2</sup> that some time about 1831, Protestant Missionaries, from England, visited and preached the Gospel to the natives on the lower Mazaruni and Cuyuni rivers. It is even hinted that these Christian teachers erected preaching stations and chapels there. The fact is not proven. But assuming that it may be, what then? The same is true to-day of North American and English Protestant teachers in various parts of Venezuela, Colombia, and Mexico; but never before has it been alleged that such acts transfer domain and jurisdiction to the countries of these Missionaries!

The supplementary edition of the Blue Book of July, 1896, opens with the half apologetic statement that "the territory which belongs to a nation in a country sparsely populated," as in Guayana, "is not confined to the spots or areas which have themselves been subject to occupation"; but that "the extent of the territory to which a nation can justly lay claim depends upon a number of considerations," such as "the physical features of the country itself," and "whether the situation and character of the areas occupied would enable the nation to which the occupants

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<sup>1</sup>Even if the facts had been otherwise, it would be a work of supererogation to prove that "Indian Protectorates" on this continent by any European power other than the original discoverer or its legal successor, are absolute nullities. See Wharton's Digest, Vol I., sec. 7; also *supra*, "Monroe Doct. on Trial," *loc. cit.*

<sup>2</sup>Blue Book, p. 24.

'belong to control the adjoining district.' In other words, the rule of contiguity is invoked in justification of the recently enlarged British claim to unoccupied territory in the remote interior of Guayana.<sup>1</sup>

But, under this rule, as will be shown in a separate Brief, Spain, as the original discoverer and occupant of the country was the legitimate owner of the interior. Consequently, what was not permanently occupied by the Dutch prior to 1648, remained a Spanish possession, and legitimately descended to Venezuela in 1810. It has been many times pointed out that the cession of 1648 was limited to actual Dutch settlements or "establishments." It did not include a foot of unoccupied territory. That remained a Spanish possession. Therefore, Holland, through whom Great Britain derived title, could lay no valid claim to such territory; and having no valid claim of her own, she could have conveyed none to England by the treaty of 1814.

Moreover, the physical features and character of the country itself are not such as would have enabled the Dutch settlers on the coast and river estuaries to control it, nor did they in fact ever control it. The great interior basin of the Cuyuni-Mazaruni is surrounded north, east, and south by a rim of high mountains. It may be compared to a huge oblong dish which dips northeastward in such a manner as to throw all its waters to a single point, where they break through a gap or fissure of this mountain wall, and pass down over a series of long and steep cataracts into the Essequibo. The natural approaches to this great interior basin were not, therefore, through these narrow and precipitous mountain gorges, but from the Orinoco side over the more gradual and gentle slopes of the great savannahs. It was from this side that the Spaniards penetrated the great Cuyuni-Mazaruni basin, explored it early in the 16th century, subsequently planted settlements and established missions and cattle ranches there, held it against all second comers, prevented hostile aggression from the Essequibo side, and, in short, effectually controlled it for more than two centuries.<sup>2</sup>

<sup>1</sup> Supp. Blue Book, "Venezuela No. 3," July, 1896, p. 1.

<sup>2</sup> See Spanish Colonial Archives (Seville), vols. II. and III.

Even, "the celebrated remonstrance" of 1769, made by the States-General upon the *ex parte* (and generally inaccurate) representations of van's Gravesand, and which is now introduced as evidence in support of the British claim, conceded to Spain the territory in which "the new missionary settlements" and their adjacent cattle ranches were situated; that is, all territory above the new Dutch outpost at Caramacura which was broken up and destroyed by the Spaniards in 1758. And it is furthermore admitted, even in the extracts from the same remonstrance, that the Spaniards had "made themselves masters" of the new trading post of the Dutch West India Company near the mouth of the Moroco.<sup>1</sup>

Again, on pages 4 and 26 of the Supplemental Blue Book, we have the assertion that "for 200 hundred years prior to 1796 the Dutch had the effective command of the coast as far as the Orinoco." But 200 years prior to 1796 takes us back to the date of Sir Walter Raleigh's first expedition, before the Dutch had yet visited the country; and yet Raleigh then found the Spaniards in full possession, as has been already pointed out. Captain Keymis, who visited the country twenty years later, found the Spaniards established in the Essequibo, and in full possession of the coast to the mouth of the Orinoco, and of the interior Cuyuni basin. Indeed, it is an incontrovertible historical fact that the Dutch made no attempt to establish settlements on the coast or elsewhere in Guayana until after Raleigh's first expedition, nearly a century after the Spaniards held the whole country.<sup>2</sup> With respect to the Cuyuni basin, prior to 1750 not a Dutchman had been seen in it farther up than the Mazaruni junction, or at farthest, above the great falls in the Cuyuni; and the disastrous attempt, in 1758, to establish a Dutch outpost above those falls was never repeated.<sup>3</sup>

Again, copious but adroitly selected "extracts" are produced from the official Reports and accompanying documents of Don

<sup>1</sup> Supp. Blue Book, pp. 169-171.

<sup>2</sup> See Brief on "Settled Districts," and the authorities there cited, by Mr. Storow.

<sup>3</sup> See Archivo General de las Indias, now before the Commission in certified copies, vols. II. and III.; Also authorities cited in the Caracas Brief.

Maguel Marmion, Governor-General of Guayana in 1788-90 to prove that "the Spaniards regarded the junction of the Curumo and Uruan with the Cuyuni as their frontier in that direction ; and that the establishment of the post in question (at the mouth of the Curumo) was recommended in order to prevent the Dutch, who had already advanced right up the Cuyuni and made settlements there, from coming still further, and taking possession of the (Spanish) mission villages themselves."<sup>1</sup>

But even these "extracts," so arranged as to very materially modify, if not entirely change the manifest meaning of the writer, fail utterly to support this monstrous assumption.<sup>2</sup> The certified copies of the original documents, now before the Boundary Commission, when carefully read as a whole, and especially when studied in connection with the contemporaneous maps and papers produced, prove just the contrary. They establish conclusively that the farthest Dutch settlement was near the junction of the Mazaruni with the Cuyuni, something less than a dozen miles from the right bank of the Essequibo ; the country intervening between that settlement and the Spanish mission towns and villages being for the most part a wilderness inhabited by wild Indians or by runaway negro slaves ; that the Spaniards had never relinquished their claim to this intervening territory, and were even then considering measures for peopling it with

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<sup>1</sup> Supp. Blue Book, pp. 19-25-316.

<sup>2</sup>Not only are there many conspicuous omissions of whole paragraphs, and even pages, that are essential to a correct understanding of the writer's meaning ; but paragraphs from a paper of a different date are sometimes inserted as integral parts of the text. In some instances, parts of sentences are united to those farther on in the same paper, the omission of intervening clauses not being indicated by the usual marks or asterisks. If this be chargeable to carelessness or incompetency on the part of the copiest or translator, that fact will hardly atone for the fault. Another instance of reckless "editing" is observed on pages 5 and 56 of the Blue Book. On page 5 it is alleged that, a few years prior to the treaty of Munster, the Dutch settlements extended to the Orinoco. In support of this allegation, the following sentence is quoted as coming from the secret Reports addressed to the Spanish government : "*The Dutch settlements in Guayana extend from close to the River Amazonas to the Orinoco.*" Marginal citations are made of "Bibliotheca del Rey, Madrid, M. S.," and of extracts in "Appendix I., p. 56," of the Blue Book itself. But neither in the papers cited, nor in the very "extracts" produced, is there any such sentence, nor anything like it, nor any clause that can properly be construed into such meaning.



emigrants from Spain and from the New Kingdom of Santa Fé; and that the proposed military fortification or station at the mouth of the Curumo was not only to protect the mission settlements and their extensive cattle ranches against depredations by the Indians, but to prevent the Dutch slave-traders and their Carib allies from kidnapping Indians in this intervening Spanish territory and carrying them as slaves to the Essequibo colony.<sup>1</sup>

### III.

In May, 1836, and again in September of the same year, Sir Robert Ker Porter, the British diplomatic Agent at Caracas, addressed a formal note to the Minister of Foreign affairs, requesting the Venezuelan Government to establish and maintain buoys and beacons at the very places on the main estuary of the Orinoco (including Point Barima) now claimed and forcibly held as British territory. And it is admitted<sup>2</sup> that this fact was known at the British Foreign Office, certainly as early as 1842, if not before. But now, sixty years after this formal request was made, and at least fifty-four years after it is admitted to have become known at the Foreign Office, Her Majesty's Government gravely disclaims and disavows this official act of their duly accredited Representative!<sup>3</sup> Moreover, it is seriously asserted<sup>4</sup> that "the Venezuelan Government never returned any reply" to Sir Robert's official request! Turning, however, to page 245 of the Blue Book itself, we find there reproduced, in somewhat de-

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<sup>1</sup> Archivo General de las Indias, certified copies, in original and translation, vol. III., No. XVIII., pp. 22 *et seq.*

<sup>2</sup> Blue Book, p. 26.

<sup>3</sup> In making this disclaimer, in 1886, the statement is added that Sir Robert Kerr Porter's letters were "never even reported" to the Foreign Office, which is incorrect. In May, 1842, when Sir Robert's successor (Mr. O'Leary) alluded to them, the British Foreign Office replied that copies could not be found; whereupon Mr. O'Leary transmitted copies. (See Official Hist., 171.) Granting, however, for the sake of the argument that the British Foreign Office knew nothing of these letters, or that it was not bound by them, they establish the fact, upon the testimony of the British Representative himself, that, in 1836, Venezuela did control the Orinoco mouth, and did then exercise domain and jurisdiction at Point Barima.

<sup>4</sup> Blue Book, p. 26.



fective translation, a formal official reply by the Venezuelan Government, dated June 15, 1836, promising compliance with Sir Robert's request. It may be added that, after some delay, this promise was fulfilled. The buoys and beacons were duly established by Venezuela. They were found there in 1876, and were there in 1886, when the English took armed possession of those places in open violation of her repeated pledges.<sup>1</sup>

Up to 1839, not a single map could be found on which was traced a divisional line west of Cape Nassau. A few of the maps of that time gave Cape Nassau as the starting point, and the Moroco river as the line. A very much larger number gave Cape Nassau as the starting point and the Pumarón river as the line. Others, more recent and authentic, including MYERS and other eminent English geographers, gave the western estuary of the Essequibo as the starting point, and the river Essequibo itself as the true divisional line.<sup>2</sup> So that, up to 1839, the only territory in dispute was, at most, the narrow, triangular strip between the Moroco and Essequibo, and extending southeastward to near the junction of the Cuyuni and Mazaruni rivers. Up to that time, Venezuela's title to the vast domain between the Pumarón and Orinoco had never been disputed.

In 1840 Mr. (afterwards Sir Robert) Schomburgk was employed by Her Majesty's Government to "survey and mark out" the frontier boundaries of British Guiana. It was purely an *ex-parte* arrangement, and therefore of no validity whatever. Venezuela was not asked to participate in it, nor was her assent solicited. Then it was, for the first time, that "a map was prepared," purporting to be in accordance with the Schomburgk survey, but in reality in alteration of that survey, which extended

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<sup>1</sup> Certified copies of official papers showing this are now before the Commission.

<sup>2</sup> The better opinion seems to be that, whilst the Dutch were never awarded eminent domain west of the Essequibo river, which was regarded as the frontier limit of the cession of 1648, their temporary outposts on the Pumarón (originally established for the apprehension of fugitive slaves) were at one time tolerated by the Spaniards. But after the extradition Treaty of 1791, which, by fair construction, indicated the Essequibo as the true divisional line, these outposts were deemed unnecessary. Hence, when not abandoned, or when attempted to be re-established, they were regarded by the Spaniards as aggressions upon their territory, and resisted as such.

the British claim to the lower Orinoco and to the Mazaruni and Cuyuni basins above Acarabisi creek. This capricious line (known as "the Schomburgk line") was tentative merely. It represented not an actual, but only a possible future claim by Great Britain. It was professedly established "only as a preliminary measure" to the negotiation of boundary treaties with "adjacent countries." If case those countries should make "any objections," "Her Majesty's Government" would "give such answers as might appear proper and just."

Venezuela did make "objections." She not only objected, but remonstrated and protested. She not only remonstrated and protested, but refused, absolutely, to enter into any negotiation of a boundary treaty so long as that arbitrary line should be allowed to stand.<sup>2</sup> Finally, the "Schomburgk line" was explicitly disclaimed, and its marks and posts ordered obliterated or taken down.<sup>3</sup> Then it was that Her Majesty's Government indicated Cape Nassau as the starting point of a divisional line, which, crossing the Cuyuni below the Acarabisi, terminated near the 61st meridian, between the 5th and 6th parallels.<sup>4</sup>

Under these circumstances, it may well seem incredible that, forty-three years later, the question of boundary being still unsettled, and the agreement of 1850<sup>5</sup> still in force, that the discarded "Schomburgk line" should be revived and claimed by Her Majesty's Government as an absolute boundary within which no proposition looking to peaceful arbitration would be entertained! It is even more incredible, if possible, that in order to sustain this untenable position, there should be produced a carefully selected and very misleading "extract" from a letter dated

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<sup>1</sup> See Letter of Lord Levesen to Mr. James Stephen, March, 1840, now before the Commission in certified copy. See also "Official Hist. Discus., etc., on Guayana Boundaries," 1896, likewise before the Commission; See also *Supra*, Part I.

<sup>2</sup> See Dr. Fortique to Lord Aberdeen, Nov. 18, 1841; also, same to same, Dec. 8, 1841; also, same to same, Jan. 10, 1842; "Official Hist. Discus.," etc.

<sup>3</sup> See Lord Aberdeen to Dr. Fortique, Jan. 31, 1842, "Official Hist. Dis.

<sup>4</sup> Official Hist. Discus., etc., pp. 18-32.

<sup>5</sup> See *supra*, "Lord Salisbury's Mistakes," "Brit. Agr., or Monroe Doct. on Trial," "Official Hist. Discuss., Guayana Boundaries," part IV., pp. 33-38.

July 15, 1839, addressed to the Marquis of Normanby by Governor Light of Demerara.<sup>1</sup>

Elsewhere in the Blue Book,<sup>2</sup> it is stated that Venezuela's first formal "claim that the territory of the Republic extended to the Essequibo" was made in 1844. The first formal claim to that limit was put forth by Venezuela as early as 1822, as has been shown already;<sup>3</sup> and that claim has been persistently and consistently maintained, from that time to the present, whenever the question was up for discussion.

That portion of the Blue Book covering the period from 1850 to date, seems to have been anticipated by Lord Salisbury in his note of November last; and since all the points therein have received due attention already,<sup>4</sup> it is not worth while to go over the ground again.

There remains, however, one feature of the British contention, not hitherto very prominent, yet ever lurking in the background, which deserves special notice. If the recent "inspired" utterances by some of the London court journals are to be credited, it is now conceded that the capricious "Schomburgk line" will have to be again abandoned. That arbitrary line is no longer claimed as an absolute limit, within which no proposal for arbitration can be entertained. But it is contended that all "settled districts" within that line, or even those beyond it, must be exempted from arbitration. Her Majesty's Government no longer claims "indefeasible title" to the soil: it is stated only that "British subjects" are settled there, and that Her Majesty's Government must protect them in *their* interests! This, in brief, is understood to be the gist of the present contention.

It has been many times shown that every "British settlement,"

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<sup>1</sup>Blue Book, App. p. 81. Compare this "extract" with certified copy of the original, now before the Commission. Courtesy forbids the use of the only word that adequately describes this "extract."

<sup>2</sup>Page 27.

<sup>3</sup>"Lord Salisbury's Mistakes," *supra*; MS. Instruc. to Colombian Minister at London, 1822; "Official History of the Boundary Dispute," etc.

<sup>4</sup>See "Lord Salisbury's Mistakes;" See also Memorandum, of March, 1896, by the Ministry of Foreign Affairs, now before the Commission.

and every police station and mining camp, west of the Essequibo, whether large or small, was placed there over the protests and remonstrances of the Venezuelan Government.<sup>1</sup> And it has been quite as often pointed out that every such settlement or mining camp, large or small, west of the Moroco and southward of the Cuyuni was planted there in open violation of the Agreement of 1850.<sup>2</sup> Moreover, it is well known that in January, 1867, and again as late as June, 1887—that is to say, twenty-one years before, and again more than a whole year after, England took forcible possession of Barima Point and the Amacura mouth—the Governor of British Guiana declared officially that Her Majesty's Government would not undertake to guarantee protection or compensation to British miners and settlers in those localities in case the boundary question should be decided in favor of Venezuela.<sup>3</sup>

In view of these facts, this latest phase of the British contention may well excite surprise, if not grave apprehension. If mere *de facto* British "settlements," however recent, and however illegal in origin, are to constitute a basis of British claim to domain and jurisdiction in one part of Venezuela, they may do so in other parts of the Republic. If in any part of Venezuela, then why not in any part of any other Central or South American State? And if the principle is to be admitted with respect to all Central and South American States, why exclude Mexico, or even one of the Territories or Commonwealths of the United States of North America?

It is precisely this ever-present feature of the boundary question in Guayana that has so justly alarmed the South American States, and given the case such international importance. No one needs to be told that territory thus acquired by a European power, is essentially an act of war. If not, then it must be

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<sup>1</sup> "British Aggression in Venezuela, etc.," IV.; "Official Hist., etc., Boundary Dis-cus.," I., II., III., IV., V., VI., VII.; Also correspondence therein between General Blanco and Earl Granville, and his successors, pp. 81-168.

<sup>2</sup> "Lord Salisbury's Mistakes," *supra*, Part II.

<sup>3</sup> See certified copies of these official proclamations, now before the Boundary Commission.

characterized as an act of piracy. Take either horn of the dilemma; the fact remains, as has been clearly shown in Mr. Olney's note of July, 1895, that it is as much a violation of the Monroe Declaration of 1823, and in fact of every recognized principle of modern international ethics, as if the territory had been seized and wrested by British troops or covered by British fleets.

WILLIAM L. SCRUGGS,

*Legal Adviser of the Venezuelan  
Government, and Special Counsel  
before the Boundary Commission.*

## APPENDIX.

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LIST OF DOCUMENTS AND PAPERS SUBMITTED BY VENEZUELA TO THE COMMISSION APPOINTED "TO INVESTIGATE AND REPORT UPON THE TRUE DIVISIONAL LINE BETWEEN THE REPUBLIC OF VENEZUELA AND BRITISH GUIANA," 1896.

1. "Official History of the Discussion between Venezuela and Great Britain on their Guayana Boundaries," pp. 440; with colored map showing different lines proposed by Great Britain. This compilation contains all the diplomatic correspondence and protocols in the case, 1822-1895.
2. "Libro Amarillo de los Estados Unidos de Venezuela, Dirigido al Congreso Nacional," 3 vols., 1892-3-4: containing official record of the case.
3. Report by Dr. R. F. Seijas, Special Commissioner of Venezuela, on "the condition of affairs in the disputed territory," March, 1890.
4. Report and maps by Dr. Muños Töber, Special Commissioner of Venezuela, on the condition and settlement of territory usurped by Great Britain, etc. Caracas, 1887.
5. "Venezuelan International Law, or British Boundaries in Guayana." By R. F. Seijas. Paris, 1888. This valuable compilation contains all the ancient Treaties and official Papers connected with the antecedents of the case.
6. "The Right of Venezuela in the Boundary Question with England," by Eduardo Calcaño.
7. Meyer's Geography, vols. I. and II., with maps. London, 1822; a semi-official British publication showing the Essequibo river as the true divisional line.
8. "Nuvo Specchio Geografico-Storico-Politico, Di Tutté Nazion del Globe," etc., Tomo II: Venezia, MDCCLXXII.
9. "Dizionario Storico-Geografico Del l'Amerique Meridiona," etc.: "Collect. della Compagnia di Yesu": Venice, MDCCLXXI.
10. "Le Moniteur des Indes, Orientales et Occidentales, Recueil de Memories et Noticies Scientifiques et Industrielles," etc. Published under the auspices of "S. A. R. Monsieur le Prince Henry des Pays-Bas." By Ph. Fr. de Siebold and P. Melville: The Hague, 1846.



11. "Travels in South America during the years 1801, 1802, 1803, and 1804: Containing a description of the Captain-Generalship of Caracas. By F. Dépons: London, 1807.
12. "Historia Coro-Grafico Natural y Evangelica de la Nueva Andalucia Provincias de Cumana, Guayana, y Vertientes del Rio Orinoco," etc. By M. R. P. Fr. Antonio Caulin: Madrid, 1779, with map.
13. "History of South America," etc. By John M. Niles: Hartford, 1839.
14. "A New Map of South America," by W. Fadden, Geographer to H. M., etc., the Prince of Wales: Charing Cross, 1807.
15. Archivo de las Indias (Seville) y de las Semancas: 1629-1790: vols. I, II, III, pp. 795: Being a collection of certified copies of original manuscripts in the Spanish Colonial Archives at Seville, Madrid, and Caracas, covering the period from 1629 to 1790, and containing all the official Correspondence, Reports, Rescripts, Cédulas, etc., bearing upon the ancient Spanish and Dutch settlements in Guayana. These papers have been carefully translated into English and published in three volumes by the Venezuelan government.
16. Accompanying the above named Archives is a collection of rare old maps (some 150 in number), covering the period from 1648 to 1810.
17. "Noticias Historiales de los Conquistas de Tierra Firma en las Indias Occidentales," etc., etc. By Fr. Pedro Simón; 1626. (Bogotá Edition, 1882, by Rivas.)
18. Certified copies of official publications by the Government of British Guiana in 1815; showing absence of any British or Dutch settlements, or of British jurisdiction, beyond the western estuary of the Essequibo river, or above tidewater on that river or on the Cuyuni.
19. Certified copies of official Papers published in the "Local Guide," Demerara, of 1815-1819; containing An Act, promulgated September 21, 1813, making regulations respecting rewards for the apprehension and delivery of runaway slaves, and incidentally showing the jurisdictional limits of the British Colony to be the Pumaron river; Schedule fees for service of Process, fixing jurisdictional limits at the Pumaron; alphabetical list of the west seacoast plantations, showing that the most westerly one ("Caledonia") to be east of the Pumaron; Militia Regulations of June 5, 1817, wherein it appears there were no militia districts or companies west of the Pumaron; Decree regulating journeys of process and attendances, but making no mention of any west of the Pumaron.

20. Certified copies of British Demeraran Census Reports of 1843; showing the total population of the whole colony then to have been but 21,509 souls; and that there were then no British settlers west of the Pumaron river.
21. Certified copy of the Proclamation of January 30, 1867, by the Governor of British Guiana, warning British subjects not to encroach upon the disputed territory in violation of the Agreement of 1850; the disputed territory thus neutralized being that west of the Pumaron and above tidewater on the Cuyuni.
22. Certified copies of official Records of the Government of British Guiana, showing that there were no British missionary or ecclesiastical establishments west of the Pumaron in the year 1850.
23. Certified copy of a Paper written and published by Mr. Everard F. im Thurn (British Magistrate in Guayana), dated August, 1879, wherein it is admitted that Great Britain then had no valid claim to any territory on the Atlantic coast west of the Moroco river, nor to any above the great falls in the Cuyuni basin.
24. Certified copies of Census Reports by the Government of British Guiana in 1851, showing absence of all British control west of the Pumaron river.
25. Certified copies of the proceedings of the "Court of Policy" of British Guiana, June 8, 1867; containing official notice to all British subjects that "any mining concessions" obtained by them, or "any settlements" made or attempted to be made by them, in the disputed territory, would be at their own individual risk; and that in case said territory should, by subsequent settlement of the boundary dispute, become Venezuelan territory, "no claim to compensation from the Colony or from Her Majesty's Government" would be recognized, etc.
26. "Lizar's Edinburgh General Atlas," London, 1829; showing no British occupation west of the Pumaron.
27. "New London Universal Gazeteer," with maps, London, 1829; showing the Pumaron as the frontier limit of British Guiana.
28. Certified copies of papers in the Vatican archives, with copies of accompanying sketch maps, showing number and location of Spanish missions, mission settlements, and cattle ranches in Guayana from 1724 to 1788.
29. Certified copies of Decrees and other official papers, in the archives of the Foreign Affairs, Interior, and Navy Departments of the Government at Caracas, showing that Venezuela exercised effective and exclusive jurisdiction at the mouths of the Orinoco from 1836

to 1886: that in 1873 she maintained pontoon lights, buoys, pilots and pilot boats at Point Barima, Brazo Barima, and Boco de Navios; that these had been maintained by her, and that she had exercised continuous jurisdiction there, up to the time of the armed occupation by the British in 1886.

30. Certified copies of judicial proceedings in the British Colony of Esequibo in 1828, showing absence of all British jurisdiction or pretended jurisdiction west of the Pumaron river.
31. Certified copies of Protests and Remonstrances by Venezuela during the years from 1886 to 1896 against British encroachments and usurpations on the Orinoco delta, at Barima Point, on the Brazo Barima, on the Wainai river, at the Amacuro mouth, and in the Cuyuni basin.
32. Pamphlet on the Guayana Boundary question, written by Dr. Rafael Seijas in reply to an article in the *London Times*, 1895.
33. Memorandum by the Ministry of Foreign Affairs of Venezuela, relative to statements made by Lord Salisbury in his note of November 26, 1895.
34. Brief, by J. J. Storror, Esq., of Boston, on the subject of "Settled Districts"; showing what in law constitutes effective occupation, and that Great Britain's extravagant claim to territory in Guayana now set up in virtue of "actual British settlements," is supported neither by fact or law.
35. The Venezuela Brief, or Reply to the British Blue Book of March, 1896; prepared by a Special Commission at Caracas. While this very learned and able Paper is moderate and conservative in tone, it is an exhaustive and masterly review of the whole controversy. It refutes the British contention at every point, and shows that, both in law and fact, Venezuela as the successor of Spain, is the rightful owner of the whole territory between the Orinoco and the Essequibo, and from the Atlantic coast to the Brazilian border.











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